PAPERS ON MALAY SUBJECTS.

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LAW.

PART I.

INTRODUCTORY SKETCH.

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PREFACE.

THIS pamphlet is only intended to give a brief introductory sketch of the three Malay Schools of Law. Each school will, I hope, be dealt with more adequately in special monographs that are being independently prepared by different writers.

I am indebted to the Resident and to Messrs. Parr, Rigby and Hale for much helpful criticism and to the Hon. R. N. Bland for some very valuable material relative to Menangkabau law.

R. J. W.

MALAY LAW.

INTRODUCTION.

OF all branches of Malay research the study of jurisprudence is the one that presents the greatest difficulties. Malay laws were never committed to writing; they were constantly overridden by autocratic chiefs and unjust judges; they varied in each State; they did not harmonise with the doctrines of Islam that they professed to follow; they were often expressed in metaphors or proverbs that seem to baffle interpretation. The following examples of Malay legal maxims will give some idea of the difficulty of understanding what a native jurist really means:

Kambing biasa mĕmbebek.
Goats bleat.

Ayam itek itu raja pada tĕmpat-nya.
Poultry are kings in their own domain.

Ĕnggang lalu ranting patah.
The twig breaks as the hornbill flies past it.

Kusut mĕnyĕlĕsaikan,
Hutang mĕmbayar, piutang mĕnĕrimakan,
Oleh tĕmpat sĕmĕnda.
To settle quarrels,
To pay debts, to collect dues:
These things are the business of the wife's relations.

Akar sa-hĕlai akan pĕngikat,
Kayu sa-batang lĕmbing pĕnikam,
Dahan sa-kĕrat akan pĕnyalang,
Puchok bĕrnama pĕdang pĕmanchong,
Itu-lah kata adat dĕngan pĕsaka.
The piece of rattan typifies the bonds,
The tree-stem means the spear,
The bough means the *kĕris* of punishment,
The shoot is the sword of execution:
So say the law and our ancient traditions.

It is extremely doubtful whether any European will ever succeed in thoroughly understanding every intricacy of the law of Menangkabau; but although sayings like those above quoted may seem to be intended for lovers of the unintelligible, the cryptic doctrines of the old Negri Sembilan jurists are full of meaning and interest if only they are studied in the right way.

The first key to all law is, of course, history.

The Peninsular Malays are believed to have originally come from the Menangkabau highlands of Sumatra, but they did not all come at the same time or in the same way. Some came almost direct; these men brought with them the pure Malay law of Menangkabau, the matriarchal *adat pĕrpateh pinang sa-batang*. Others came by way of Palembang; these men brought the patriarchal *adat tĕmĕnggong*, for the ancient Malay kingdom of Palembang had come under the influence of the old Hindu civilisation of Java and had entirely abandoned its Menangkabau customs. We thus get two absolutely distinct schools of law: the *adat pĕrpateh* in the Negri Sembilan and Naning, and the *adat tĕmĕnggong* (or its fragmentary remains) in the other Peninsular States. To these two schools we must add a third: the *hukum shara'* or Muhammadan law. The Malays, as good Moslems, profess to accept the legal teachings of Islam even where those teachings conflict with the local *adat*; they pretend, indeed, to regard the *adat* as explanatory of Moslem law or as supplementary to it. All this is mere fiction; the three systems of law are absolutely irreconcilable. The *adat pĕrpateh* is democratic; it addresses itself to the commons and finds expression in quaint sayings that seem to belong to the homely province of proverbial philosophy. The *adat tĕmĕnggong* is autocratic; it is

supported by Malay princes and finds expression in long legal digests (*undang-undang*) drawn up by court scribes for the glorification of the *raja* and (incidentally) for the purpose of displaying their own learning. The *hukum shara'* is, of course, theocratic; it appeals to the educated classes and is embodied in elaborate treatises that have been translated from the Arabic. No three legal systems could be more unlike one another.

The first duty of the student is therefore to clearly understand the composite nature of Malay law. He must not look for uniformity where no uniformity can possibly exist. Above all, he must not allow himself to be blinded by any European preference for written or recorded laws. He should not take the so-called "codes" (*undang-undang*) too seriously. When he reads about the "Malacca Code" or the "Malay Maritime Code" or about the "Laws of Bencoolen and Palembang," he has to remember that these so-called "codes" were never actually enacted by any legislative authority; they are only digests of Malay law. There is a very great difference between a digest and a code. A digest may give a very faithful picture of its subject, but it is, at best, a picture and not the actual law—no man can be charged in court with violating some section or sub-section of a digest. This distinction would not matter so much if the authors of our so-called Malay "codes" were great legal artists who faithfully depicted what they found to be the law, but they were courtiers who were fonder of theories than facts. When, for instance, the author of the "Malacca Code" assures us that a fisherman is entitled to the ownership of his catch, even if he clumsily happen to hook a passing damsel, we need not imagine that there ever was a time when the hooking of casual

spectators was allowed to become a profitable branch of the piscatorial art; it is more reasonable to suppose that the learned author of the "Maritime Code" was an extremely argumentative person who pushed his doctrines to absurd extremes. Of course these published *undang-undang* are interesting and valuable because of the evidence they give of the legal theories that underlie the *adat tĕmĕnggong*, but they do not possess the authority of enactments nor do they help us in any way to understand the *adat pĕrpateh* or ancient customary law of Menangkabau.

Great weight may, however, be attached to the curious Malay legal maxims, the sententious sayings that have been handed down by oral tradition and are accepted in the Negri Sembilan as good law. They correspond to such English proverbs as "Possession is nine-tenths of the law" and "An Englishman's house is his castle," but they are far more numerous and more authoritative. They deserve very careful study, for they embody nearly the whole of the *adat pĕrpateh* and are based upon actual experience more than upon the opinions of individual jurists. These sayings are a great power in the Menangkabau States: being known to all and having the full force of public opinion behind them, reference to them is sufficient to compel even an unjust judge to do justice to the litigants before him.

The student of old Malay law should also remember the political conditions under which it was administered, since he is apt to be misled by the position of affairs under British protection. In the principal centres of government—Taiping, Kuala Lumpur and Seremban—he sees that the largest public buildings are the gaols and the largest public bodies are the police, so that he is

apt to forget that police and prisons had no part in the simple village life of the old Malays. Although a few native princes (especially in the Northern States) were sufficiently advanced to establish at their capitals some cages that might be called rudimentary gaols and to maintain small bands of disreputable followers who might by extreme courtesy be described as their police, the minor headmen who controlled the destinies of the remote villages could not afford these evidences of higher civilisation. In the Negri Sembilan life was largely communal. Imprisonment and mutilation—such as the lopping off of a limb—rendered a man a burden to the community instead of an aid. Torture, scourging, branding and disfigurement were dangerous punishments to inflict because of the desperate thirst for vengeance that they roused in the heart of a sensitive and self-respecting Malay. Death, enslavement and exile were extreme penalties that could only be applied to incorrigible offenders. We therefore find, as we might have expected, that the *adat pĕrpateh* was an extremely mild system of law, lenient to first offenders and always ready to condone a wrong if due restitution was made. Its great feature was the system of collective responsibility—the liability of a family for the faults of its members. In inflicting nothing more serious than a fine upon an offender, the administrators of the law could rest assured that all possible family influence would be brought to bear on the criminal to induce him to amend his ways and to become a source of profit instead of loss and disgrace to his relations. By this means the *adat pĕrpateh* tended to reclaim the wrong-doer and to keep its own leniency from degenerating into an undue tolerance of crime. On the irreclaimable offender—the

man whom his own family rejected—the law pressed severely: it had no option except to banish, kill or enslave him. Taken all in all, this *adat* of Menangkabau may claim great merit as a system of law; it was just, it was humane, it tolerated no delay in criminal matters, it secured compensation for the injured; it never brutalised or degraded a first offender; it was understood by all and even went to childish extremes in its desire to explain itself clearly and intelligibly to the very humblest intelligence in the community.

The autocratic *adat tĕmĕnggong* was different. The interests of a Malay chief lay in the direction of exacting heavy fines, reducing offenders to slavery under him, and vindicating his authority by the cruel punishment of any man who dared to gainsay him or disregard his commands. The justice of a Malay prince, even when impartial, was a cruel and pitiless justice, seeking to deter rather than to reform. The theocratic *hukum shara'* (which came into prominence whenever a native ruler was frightened by illness or old age into a sudden zeal for reforming his neighbours) was, in its way, even more unsatisfactory than the *adat tĕmĕnggong*. It multiplied offences intolerably. Cock-fighting, opium-smoking, gambling, illicit intercourse, irregular attendance at mosque, and even such technicalities as wearing the wrong kind of clothing and beating gongs at weddings are liable to be severely punished under Muhammadan law. If the *adat tĕmĕnggong* brutalised the people, the *hukum shara'* put a premium on hypocrisy. Zeal for piety, like zeal for law and order, may easily be pushed too far.

As a corrupt judiciary will discredit any legal system however excellent in itself, it is necessary to

discriminate also between the law and its administrators when we estimate the merits and demerits of the old Malayan *adat*. When compared with English law the *adat tĕmĕnggong* seems very faulty indeed; it was crude and primitive in its legal theories, uncertain and unmethodical in its pronouncements, cruel and brutalising in its punishments. The *hukum shara'* or Moslem law stands on a much higher plane of intelligence, but it was rather inhuman in its penalties and unpractical in its inability to distinguish between crimes and sins. The primitive *adat pĕrpateh* bears the comparison with English law best. English law is not, of course, above reproach; it owes its reputation in the East more to the integrity of its judges than to its own merits. It is notoriously slow; it is full of formalities and technicalities; it is costly to suitors; it is constantly being amended or modified; it presses hardly on jurors and witnesses and is not easily understood by the people. Moreover, although it may seem paradoxical to accuse English law of comparative brutality, its system of administering punishment as a deterrent suggests the cruel *adat tĕmĕnggong* rather than the kindly *adat pĕrpateh* which treated crime as a mere civil wrong until an offender was shown to be incorrigible. The interest of the study of the different systems of Malay law with their varying merits and demerits lies in these comparisons of one with the other. From this point of view, the *adat pĕrpateh* is exceptionally interesting because it shows how these primitive Menangkabau Malays overcame many difficulties that English law has failed to surmount. The men of Menangkabau succeeded in creating a jurisprudence so simple that the humblest villager could understand it, so well known that no judge could excuse

or defend an unjust decision, so little vindictive that it sought the interest of the injured party rather than the punishment of the wrong-doer, and so humane that it could dispense with mutilation, scourging, torture, slavery, and imprisonment. In fact, throughout all the old Sumatran *adat* we can trace the underlying idea that the worst use to which a criminal can be put is to cripple him or to kill him or to dishonour him by degrading punishments or to brutalise him by unproductive prison-labour. As all members of a little community were connected by marriage, they constituted one family and called the village-headmen the *ibu-bapa* or "parents" of the hamlet. The system of justice so administered by one's "wife's relations" was a happy mean between the over-indulgence of close blood-relationship and the utter indifference of stranger to stranger.

THE ADAT PĚRPATEH.

The States that make up the modern Negri Sembilan are not ancient communities. They date back, at farthest, to the middle of the seventeenth century, when a number of Sumatran Malays began to migrate in small detachments from Menangkabau to the inland districts behind Malacca. The descendants of these old immigrants still speak of themselves as "Sons of Menangkabau."

Kita anak Mĕnangkabau yang di-bawah langit dan di-muka bumi, sa-lingkar Gunong Bĕrapi, sa-hingga pintu raya, hilir hingga Silagundi, mudek yang bĕrnama Tanah Samata, Pulau Andalas.

We, sons of Menangkabau, who dwell with the heavens above us and the earth beneath our feet, who once held the lands round the Mighty Burning Mountain as far as the great pass that opens the way to the plains, who migrated down to Silagundi, to the territories below the State of Sumatra in the isle of Andalas.

The "Sons of Menangkabau" came down first to Siak; then they crossed the Straits to the Linggi River; thence they made their way to Naning, Rembau and the other Negri Sembilan States. When few and weak they protected themselves by admitting the supremacy of Johor; gaining courage as time went on, they selected a prince of their own blood from the royal line of Menangkabau. This prince, Raja Melewar, appointed about A.D. 1770, was the ancestor of the present Yang-di-pĕrtuan Bĕsar of the Negri Sembilan.

These and many other facts of local history are recorded in the quaint old sayings *(pĕrbilangan)* that have been handed down from generation to generation by way of making the Negri Sembilan Malays ever mindful of their origin. These old sayings are not likely to be forgotten; they are a source of pride, an unwritten pedigree or patent of nobility to the men who quote them and about whom they are quoted. Old sayings, even when historical in character, are generally considered by Malays to be included in *adat*, "law," for although they are not really law, they serve to explain or elucidate the law. Here is one of them:

Bĕraja ka-Johor,
Bĕrtali ka-Siak,
Bĕrtuan ka-Mĕnangkabau;
Sultan Bĕsar di-nĕgĕri Sĕri Mĕnanti,
Pĕrtuan Muda di-nĕgĕri Rĕmbau.
Our suzerain is Johor,
We have ties with Siak,
Menangkabau is our master;
Our highest local chief is the Ruler of Sri Menanti,
Our second local chief is the Yamtuan Muda of Rembau.

This saying explains the political position of the confederation in its relations with foreign States.

Again—

Alam běraja,
Luhak bĕrpĕnghulu,
Suku bĕrtuha,
Anak buah bĕribu-bapa.

The world has its king,
The district has its chief,
The tribe has its headman,
The family has its elders.

This saying gives the gradations of rank within the State.

Before, however, we can examine the constitution of the Negri Sembilan as a whole, we have to study the units, the little matriarchal communities, of which the population is made up. Tribal descent goes through women—a man is a member of his mother's tribe until by marriage he is received into his wife's. Land can be owned by women only. Women may not travel; the husband settles in his wife's village—not the wife in the husband's. Exogamy is insisted on. These points summarise the constitution of the "family."

The effect of these curious rules—the very reverse of what Europeans are accustomed to—is not to be realised without some thought. Let us suppose that a small party of men and women belonging to the Payakombo tribe[1] settled at a certain village in Naning. The daughters of the original settlers would belong to the same tribe, would possess all the land, and would continue to reside in the same place. The sons of the original settlers would—owing to the law of exogamy—be compelled to leave their native homes, to marry into other

[1] Of course there are no actual tribal districts; the whole of the Payakombo tribe did not settle in one place. The unit is a family group (*pĕrut*), a subsection of a tribe (*suku*).

communities, and to take up their abode in the houses of their wives. This process goes on from generation to generation. The women of a family group (*pĕrut*) constitute a wealthy, powerful and united body, banded together by the bond of a common descent, sharing a common tradition and owning all the land. Their husbands, the men of the community, are a nondescript crowd, drawn from many different tribes and villages, not united by ties of blood, and not owning any of the lands and houses. In such settlements the position of women is an immensely strong one. Any idle or criminal husband would at once incur the hostility of "his wife's relations," the whole clan, and would be practically compelled to mend his ways. Should he prove irreclaimable he might of course be divorced and expelled; he would lose his livelihood and would find that no community would accept him, and that no other woman would marry or support a man who had so hopelessly failed in his duties. If we try for a moment to realise the enormous hold that one of these communities must have over its members, we can at once understand why the "family" could answer for the deeds of its members:

Kusut mĕnyĕlĕsaikan,
Hutang mĕmbayar,
Piutang mĕnĕrimakan,
Oleh tĕmpat sĕmĕnda.
To settle disputes,
To pay debts,
To receive dues—
These things are the business of "the wife's relations."

I now venture to quote from Mr. Hale's "Folk-lore and the Menangkabau Code in the Negri Sembilan:"

Orang sĕmĕnda bĕrtĕmpat sĕmĕnda;
Jika chĕrdek tĕman bĕrunding,

Jika bodoh di-suroh dia arah;
Tinggi banir tĕmpat bĕrlindong,
Rimbun daun tĕmpat bĕrnaung.
The married man shall be subservient to his mother-in-law;
If he is clever I will try to cajole him,
If he is stupid I will see that he works;
Like the buttresses of a big tree he shall shelter me,
Like the thick foliage he shall shade me.

One can imagine the satisfaction a Malay mother derives from thinking over this saying and reciting it to her cronies and her daughter, when she has made up her mind to receive a son-in-law into the family; be he sharp or slow, clever or stupid—either way she cannot be a loser. Her daughter's house will be built behind her own; if the man is clever he will get enough money to build the house by easy means; if he is stupid she will so bully him that the poor man will be glad to labour with his hands at her bidding: it would seem to the anxious mother that she and her daughter cannot but be gainers by the contract.

This passage bears rather amusing testimony to the power of "the wife's relations." Although the quotation is not likely to prejudice anyone in favour of the women of Rembau, common justice ought to make us recognise that the system worked well. The people of the Negri Sembilan are the most industrious, most intelligent and most artistic Malays in the Peninsula. They owe these qualities largely to the pressure put on them by "the wife's relations." To the communal system they also owe the merits of their law. If a man was wronged he was indemnified by the wrong-doer's "wife's relations." If a man committed an offence in a foolish moment of thoughtlessness or passion, he was not turned into a criminal; he compounded the wrong by the help of his "wife's relations." The quarrels of the community were settled by the elders—the *ibu bapa*, or "parents" of the community, as they were called—men who were

connected by marriage with both disputants and might be expected to temper justice with mercy. The communal system explains both why the law was humane and why it could afford to be humane. The women of a place constituted a bond of relationship between one man and another and gave to a settlement something of the unity of a family with the elders or "parents" at its head.

The highest quality of the *adat pĕrpateh* was its humanity; its next great merit was the extreme simplicity that brought its provisions within the knowledge of everyone. It was embodied in a vast number of homely sayings that covered almost every branch of law, tradition and proverbial philosophy. *Adat*, in fact, meant more than mere law. In the quaint and primitive jurisprudence of Menangkabau the meaning of the word *adat* is explained by the proverb:

> *Bujur lalu, lintang patah.*
> Lengthways, you get through;
> Crosswise, you get broken.

If you take a stick and thrust its point at an aperture, the stick goes through; if you press the stick athwart the aperture you only break the stick. The aperture is the same, the stick is the same, the intention is the same, but the procedure is not the same. *Adat* is right procedure. In all matters there is a right way of doing things and a wrong way of doing things; *adat* is the right way. If a man obeys the laws of nature and the customs of society he is likely to get on; if he flies in the face of convention he is sure to be broken like the stick in the proverb. In English the word "law" is used in a loose popular sense as well as in a technical sense; *adat* is law in the loose popular sense. *Adat*

includes the laws of nature, the conventions of society, the rules of etiquette, and even the doctrines of common sense. *Adat* is right action in the matters of everyday life as well as in obedience to the law of the land. The English word "law," as defined by a great jurist like Austin, is *adat* in a very limited sense indeed; it does not cover the so-called laws of nature or of health or of etiquette. An English jurist would say that the law compelled a cabman to wear a badge but not a tie or a water-proof; a Malay would say that *adat* compelled the driver to dress decently and to protect himself from the rain. Curiously enough, the modern Menangkabau Malays have been clear-sighted enough to appreciate the difference between law and *adat*, as the following verse will prove:

Orang Makkah mĕmbawa tĕraju,
Orang Baghdad mĕmbawa tĕlor,
Di-makan dalam puasa;
Rumah yang bĕrsĕndi batu,
Adat yang bĕrsĕndi law,
Itu-lah akan raja.

"Houses built on a framework of brick—customs (*adat*) built on a framework of law—are kings among their kind." In this passage we see very plainly the idea that law lies at the very heart of *adat* but is not coextensive with it.

"Law," then, in the English sense, is virtually a government order backed up by a penalty for non-compliance; the source of law is legislative authority. What, then, are the sources of right action (*adat*)? The Menangkabau jurists say that there are six such sources: primitive justice, revelation, tradition, treaty-

convention, promises and the course of events.[1] All these things determine what is right action and what is wrong.

Primitive justice (*chupak yang asli*) is practically equity or common sense. To illustrate the application of common sense to law the Negri Sembilan jurists have evolved a most curious series of axioms or maxims so homely in their terms that they could not fail to explain the *adat* to the intelligence of any villager however stupid or ignorant. To us, of course, they seem childish:

Kambing biasa mĕmbebek,
Kĕrbau biasa mĕnguak,
Ayam biasa bĕrkukok,
Murai biasa bĕrkichau.
Goats bleat,
Buffaloes bellow,
Cocks crow,
Magpie-robins twitter.

This only means that every living thing, through birth, natural aptitude or surroundings, has some allotted function in life. Applied to humanity the same axiom is thus expressed:

Pĕnghulu biasa mĕnghukumkan adat,
Alim biasa mĕnghukumkan shara',
Hulubalang biasa mĕnjarah,
Juara biasa mĕlĕpas,
Saudagar biasa bĕrmain bungkal tĕraju,
Pĕrĕmpuan biasa bĕrusahakan kapas dan bĕnang.
The penghulu administers customary law,
The jurisconsult administers religious law,
The warrior raids the enemy's country,
The trainer lets fly the fighting-cock,
The merchant fingers weights and measures,
The woman works with her needle and thread.

[1] A man's promises and the course of events may determine right action, but they do not affect law. They are not discussed in this chapter.

These axioms have even been versified to enable them to be more easily remembered:

Chĕmpĕdak ambilkan gulai
Di-gulai dalam puasa;
Apa-kan chupak pĕgawai?
Bĕroleh titah daripada raja.

Mĕnchampak timba ka-hulu,
Kĕna-lah udang oleh orang;
Apa-kan chupak pĕnghulu?
Bĕrmain undang-undang.

Mĕnchampak ka-tĕngah sawah,
Mĕndapat buah dĕlima;
Apa-kan chupak mĕmĕrentah?
Mĕngĕtahui jawab ĕmpat pĕrkara.

We have also a similar set of quatrains in a slightly different form:

Bĕrpĕrak ka-tĕngah kota,
Tĕmpat bĕrtanam sĕlaseh jambi;
Jika ta'-banyak kitab tĕrbacha
Tiada sah mĕnjadi kadzi.

Burong kĕnari bĕrkĕkah,
Bĕrkĕkah di-tĕngah padang;
Jika ta'-bĕrani mĕnjarah,
Tiada sah mĕnjadi hulubalang.

Lalu bĕrĕmpat orang kubong,
Ka-baroh mĕmbawa pĕtai;
Jika ta'-tahu kata bĕrhubong
Tiada sah mĕnjadi pĕgawai.

All these verses—and many others like them—only mean that every man has his own business and that he should try to mind it.

The next maxim is that a man should not only

attend to his own business, but should attend to it in the proper way:

Mĕnumbok di-lĕsong;
Mĕnanak di-pĕriok.
Pound rice in a mortar;
Boil rice in a cooking-pot.

If you go pounding rice in a cooking-pot, you will only break the pot; if you boil your rice in a mortar, you will not get an appetising dinner. Such action is not right action; it is not the right way to do things; it is not *adat.*

The next item in this homely jurisprudence is that if a person is doing his proper work in the proper way, he is not to be thwarted or interfered with. Every person is "king in his own domain."

Pĕnghulu itu raja pada tĕmpat-nya;
Pĕgawai itu raja pada tĕmpat-nya;
Hulubalang itu raja pada tĕmpat-nya;
Kanak-kanak itu raja pada tĕmpat-nya;
Sĕgala binatang itu raja pada tĕmpat-nya;
Ayam itek itu raja pada tĕmpat-nya.

"Even poultry are kings in their own domain." When it comes to laying eggs the wisest man on earth cannot successfully compete with a humble hen.

The next maxim is a very important one; it deals with the treatment of offences against *adat.* The rule is expressed as follows:

Yang mĕnchinchaug, yang mĕmapas;
Yang mĕmbunoh, mĕmbangunkan;
Yang mĕnjual, mĕmbĕri balas.[1]
Who wounds must heal;
Who slays must replace;
Who sells must restore.

[1] A shorter variant is *chinchang papas, bunoh balas.*

In other words, the wrong-doer must pay for the wrong done. This axiom has been versified.

Orang Silongkang mĕmbawa kapas,
Orang Butun mĕmbawa ayer;
Yang mĕnchinchang yang mĕmapas,
Yang bĕrhutang yang mĕmbayar.

This is, of course, like the doctrine of "an eye for an eye, a tooth for a tooth, a life for a life." But there is this important difference: the *adat pĕrpateh* aimed at restitution and not at vengeance; it concerned itself chiefly with securing adequate compensation for the injured party or his relatives.

We may conclude with one final axiom of this axiomatic law—

Chupak yang pĕpat,
Gantang yang piawai,
Bungkal yang bĕtul,
Tĕraju yang baik,
Tiada boleh di-paling lagi.
Let your measure be just,
Let your measure be full,
Let your weights be correct,
Let your scales be even—
And no one will go back on what you do.

This saying is intended to imply that a seeker for justice should not be put off with half-measures, that compensation should be adequate and that debts should be paid in full. Half-measures satisfy nobody; they only lead to vendettas and to the continual reopening of a quarrel.

It is easy to see how this quaint old sententious jurisprudence could be applied to the settlement of simple disputes. Let us suppose that *A* drives over *B*. If *A* does not know how to drive we condemn him at once because "a goat should not attempt to bellow."

If *A* has been using an unsuitably restive horse we also condemn him because he should not "pound rice in a cooking-pot." If *A* has been driving on *B*'s side of the road we decide in *B*'s favour for *B* is "king in his own domain." We follow up the decision by making *A* pay damages because "whoever destroys shall also replace," and then we fix the compensation at a sum proportionate to the injury, for "the measure should be full, the weight should be correct, the scales should balance fairly." Finally, if *A* meets the claim in a fair spirit we can insist on his obtaining a quittance in full from *B*—"the measure is sufficient, and there is no going back on what you do." If the trained jurist is inclined to sneer at a law so childish in its terms as to suggest the nursery or the kitchen rather than the court, he should remember that this very simplicity made it comprehensible to the humblest members of the primitive communities for whom it was intended. As with the great truths of religion—

> Truth in closest terms shall fail,
> When truth embodied in a tale
> May enter in at lowly doors.

The simplicity of the law of Menangkabau was its strength. If a suitor had a perfectly clear case he either got what he wanted or he made it clear to the whole country-side that he was being unjustly kept out of his rights. He could not be put off with any misrepresentation of a law that the very children of the country knew and understood. The difference between the *adat pĕrpateh* and the *adat tĕmĕnggong* is visible in these days of British administration. Whenever a miscarriage of justice occurs in Perak, Pahang and Selangor, the Malays

take it very calmly; but in the Negri Sembilan the whole population is excited by any non-recognition of the local *adat*. The passionate interest taken by the people in their old traditional law is surely a testimony to its practical value. To quote one of their own sententious aphorisms, "A man who deals in jewels is the best judge of a gem."

According to Menangkabau jurists, the axiomatic justice that we have been discussing is only one of six great branches of *adat*. Embodied in a few homely sayings, primitive justice (*chupak yang asli*) may suffice for the settlement of very simple issues, but has to be supplemented by something more elaborate whenever we come to complicated questions such as the title to land, the succession to property, the validity of marriages and divorces, and the proper election of chiefs. The more elaborate branches of jurisprudence are accordingly known to the Malays as artificial law (*chupak yang buatan*), treaty-law (*kata muafakat*) and tradition (*kata pĕsaka*). If we accept the unhistorical belief that the whole of the *adat pĕrpateh* was invented by a certain Dato' Pĕrpateh Pinang Sa-batang and that the whole of the *adat tĕmĕnggong* was the work of a Dato' Kĕtĕmĕnggongan, we might go so far as to describe all higher law as "artificial"; but, of course, these great opposing legists are mere personifications of schools of jurisprudence and could not historically have sunk European ships or argued with each other or done the other wonderful things that are ascribed to them. Under the circumstances, it will make for clearness if we discuss the peculiarities of the *adat pĕrpateh* as "tradition" (*kata pĕsaka*) and the Negri Sembilan constitutions as "treaty-law" (*kata muafakat*). By this classification we limit

the term "artificial law" (*chupak yang buatan*) to the additions imported into *adat* by the influence of Islam.

We use the term "additions" intentionally. In theory the Menangkabau Malays are good Muhammadans and are bound to accept the whole of Muhammadan law, but in practice they limit that acceptance to matters in which it does not disagree with their own customs. When it comes to choosing between the *adat* and the *hukum shara'* they allow the latter to go to the wall. Of course there are many points on which the two need not conflict: questions of mosque management, for instance, lie entirely outside the *adat*. Even in points in which the two laws contradict each other, the Negri Sembilan Malay affects to believe that Moslem law agrees with *adat*, and that his local *kadzi* is only misinterpreting the law. The Negri Sembilan Malay in fact looks upon the *adat* as the application of divine law to mundane matters—

Adat yang kawi,
Shara' yang lazim.
Custom is real law,
Religion is ideal law.

He argues that there is really very little difference between the two:

Pada adat,
Mĕnghilangkan yang burok,
Mĕnimbulkan yang baik;
Kata shara',
Mĕnyurohkan bĕrbuat baik,
Mĕnĕgahkan bĕrbuat jahat.
Our customary law bids us
Remove what is evil
And give prominence to what is good;
The word of our religious law
Bids us do good
And forbids our doing evil.

One law is satisfied if a man abstains from evil; the other goes further and expects him to do good. Although *adat* may not go as far as religion it must surely be based on the same right principles; how, then, can the two come into collision? So argues a Menangkabau chief whenever he dismisses a *kadzi* for not seeing his way to reconcile the canons of religion with the accepted law of the world.

As the *hukum shara'* or law of Muhammad is the subject of a special chapter of this pamphlet we may pass it over for the moment and proceed to examine the next two branches of Malay jurisprudence, "treaty-law" (*kata muafakat*) and "traditional law" (*kata pĕsaka*), as we may roughly translate them. We use the term "treaty-law" advisedly because the constitutions of the various States of the Negri Sembilan were so elaborate and differed so much from one another as to bear out the theory that they were the result of of conventions (*muafakat*) between the different village-communities. The titular head of the country, the Yamtuan Bĕsar, was a hereditary ruler who succeeded to his title according to descent in the direct male line. The Dato' of Naning (the oldest State) was also a hereditary ruler, but he inherited and bequeathed his title according to the matriarchal system of descent through women. The Dato' of Johol was chosen by the chiefs of the aboriginal tribes. The Dato' of Rembau was elected in the most elaborate way from a certain limited clan of *waris* or possible heirs. This clan was divided into two branches, each of which took it in turn to provide the Dato'. In theory the eight subdivisions—the *waris* villages—ought also to have taken in turn the provision of a chief, but in practice the stronger were apt to override the weaker.

The State of Rembau also presents us with the curious anomaly of a Sakai chief[1] reigning over a population of Malays. The *waris* clan was only a subdivision of the great *biduanda* tribe, the descendants of the aboriginal inhabitants of the country. But though the Dato' was, in a sense, a Sakai, the "electors" were Malays. The "electors" were the *lĕmbagas* or tribal headmen representing the twelve Malay tribes.[2] The Dato' was a Sakai, but his own people had (in theory) no voice in the final stages of his election.

The constitutional *adat* of the Negri Sembilan dealt with many things besides the appointment of the rulers. It defined the position and precedence of the minor chiefs, it settled their powers, and it covered the whole of what we may term their court etiquette. It is summarised in a large number of sayings, of which the following are examples:

Ada-pun raja itu tiada mĕmpunyaï nĕgĕri dan tiada boleh mĕnchukai kharajat, mĕlainkan bĕrkĕadilan sahaja sĕrta pĕrmakanan-nya.
The King does not own the soil nor can he levy taxes; he is the fountain of justice and may levy definite fees for his maintenance.

This passage explains the position of the Yang-di-pĕrtuan Bĕsar. His precedence was unquestioned; his powers were limited. He was the *kĕadilan* or "fountain of justice," but the great chiefs executed his justice as they thought fit. All executive authority lay with the great local chiefs:

Raja bĕrdaulat, pĕnghulu bĕrandika;
Raja bĕrtitah, pĕnghulu bĕrsabda;

[1] The Dato' would be a Sakai in the direct *female* line. By blood he must be largely a Malay—owing to the law of exogamy. But he claims the heirship by virtue of the Sakai element in his ancestry. The Dato' of Johol is also a "Sakai" in this sense.

[2] The "electors" approve or confirm the election; they do not directly choose the Dato'.

Raja bĕrkhalifah, pĕnghulu bĕrsuku;
The king has Majesty, the chief has Honour;
The king decrees, the chief orders;
The king rules the world, the chief rules the tribe.

These last sayings do justice to the titular dignity of kings.

Raja mĕnobat didalam alam;
Pĕnghulu mĕnobat didalam luhak;
Lĕmbaga mĕnobat didalam lingkongan-nya;
Ibu bapa mĕnobat pada anak buah-nya;
Orang banyak mĕnobat didalam tĕratak-nya.
The king rules his world;
The chief rules his province;
The *lĕmbaga* rules his tribe;
The elder rules his own people;
The peasant rules his house.

This last passage deals of course with the territorial limits of power. The next deals with the character of that jurisdiction:

Tali pĕngikat daripada lĕmbaga,
Kĕris mĕnyalang daripada undang,
Pĕdang pĕmanchong daripada raja.
Bonds are the *lĕmbaga's*,
The execution-*kĕris* is the chief's,
The sword of execution is the king's.

Petty disputes were settled by a system of arbitration, the arbitrators being the village-elders or "parents" of the village. If the dispute was serious enough to demand stronger measures the *lĕmbaga* or tribal headman was called in, with power to bind the culprit and, if necessary, hand him over to the chief, the *undang*, who had authority of life and death.

But why was there a distinction between the sword and the *kĕris*?

In theory the power to shed a man's blood was only vested in the king. This power was very jealously guarded and might even provoke a war if a sultan believed that a great vassal was putting criminals to death without sufficient deference to the supreme authority, the "fountain of justice." The full power of life and death was defined as—

Tikam ta'-bĕrtanya,
Panchong ta'-bĕrkhabar.
To stab without question,
To behead without reporting the matter—

a passage that is sometimes misinterpreted into suggesting that a prince could execute a man without trial. The real meaning is that the chief can execute without appeal. The full authority conveyed in these two expressions was essentially a royal prerogative and was not delegated. In practice, however, the power of executing criminals had to be exercised (without appeal) by the chief local authority in the outlying districts of a sultanate. A distinction was therefore drawn between death by the sword and death by the *kĕris*. The long rapier-like *kĕris* of execution, forced downwards from the collar-bone through the heart and lungs, slew the criminal without (theoretically) causing more external bleeding than could be absorbed by the little piece of cotton-wool through which the *kĕris* was driven. Death by the *kĕris* was not supposed to shed blood; the power *tikam ta'-bĕrtanya* might, therefore, be delegated without impairing the royal prerogative, and it might be exercised without exposing the local chief to the ghostly penalties for sacrilege by violating the majesty of kings. So, too, we have the following saying:

Lĕmbaga bĕrsĕkat,
Undang bĕrkĕlantasan.
The tribal chief is of limited powers,
But the *undang's* authority is wide.

The four great Penghulus or *Undangs* were the Dato' of Rembau, the Dato' of Johol, the Dato' Klana of Sungai Ujong, and the Dato' of Jelebu. The Dato' of Naning never acknowledged the suzerainty of Sri Menanti, and the old Menangkabau rulers of Klang and Linggi were subjected by the Bugis chiefs. The modern representative of the Yang-di-pĕrtuan Muda has now become an executive ruler in Tampin. For all intents and purposes each subdivision was autonomous, though the rulers of Sri Menanti claimed a titular hegemony similar to that which the mediæval emperors claimed over the States of Europe.

The subdivision of a State into tribal districts under *lĕmbagas* is not universal in the Negri Sembilan. The *lĕmbagas* differed greatly in relative importance and were not all "electors" of the Dato'.

The *adat* assigned to the major chiefs certain insignia of rank, certain privileges and certain marks of dignity. It laid down, for instance, that the marriage ceremonies in an *undang's* family lasted five days, in a *lĕmbaga's* family three days, in a village headman's family two days, and in a peasant's family one day only. It allowed the principal chiefs to possess curious attributes of office such as flags of a type not found in the other Malayan States—the *ular-ular*, a long white streamer with a black fringe at the end; the *mĕrual*, a long oblong flag with little metal spheres at the far corners; and the *tunggul*, a tricoloured triangular flag with a sphere and a tassel at the point. It also allowed

certain officers to decorate with cloth hangings the ceilings and pillars of the houses. It also granted more material privileges to the *lĕmbagas* in the form of customary gifts of meat and food at festivals and weddings. Of course it laid down strict rules of precedence for the guidance of officers and arranged every detail of a state ceremony or procession. Indeed, it pushed formality to such extremes that the herald at the installation of a Yang-di-pĕrtuan was expected to stand on one leg and hold his right ear in his left hand when making his proclamation. All these details, of course, seemed matters of vital importance to the old Negri Sembilan masters of the ceremonies, but they possess no interest to the student of jurisprudence. They have therefore to be passed over.

"Traditional law" (*kata pĕsaka*) constitutes the fourth of the great branches into which the Menangkabau Malays divided their *adat*. Indeed, it might be made to include all the rest since traditional sayings enter into every section of the law. For the sake of lucidity, however, we will limit the term *kata pĕsaka* to those sayings that refer to the special features of the law administered in the Menangkabau courts, leaving out administrative matters (*kata muafakat*), religious matters (*chupak buatan*), and axiomatic or common-sense rules of equity (*chupak yang asli*).

In an agricultural community the rules relating to land-tenure are, of course, of the first importance.

The *adat pĕrpateh* recognised that whenever waste land was taken up for cultivation it passed from the hands of the aborigines into those of the Malays. While admitting that the aborigines who could not develop the soil had no right to prevent more industrious people from

doing so, the *adat* laid down that some compensation was due to the dispossessed, were it only for the hunting-rights of which they were deprived. In a sense, the law even admitted the claim of the beasts and birds to some consideration :

Jalan raya, titian batu,
Bukit bukau rimba yang sunyi,
Gaung yang dalam, lapan yang lebar,
Bandar yang sundai—
Si-barau-barau yang ĕmpunya.
Lubok yang dalam—
Si-kitang-kitang yang ĕmpunya.

The birds possess the earth ; the fish possess the sea. But the aborigines or their representatives (the Dato' of Rembau and his clan of *waris* or "heirs") owned the waste lands in a stricter sense.

Gaung guntong, bukit bukau,
Waris dan pĕnghulu yang ĕmpunya.

The nullahs and the narrow valleys,
The hills and the surrounding flats,
Are the property of the chief and of the heirs.

The chief and the heirs own the jungle, and the Malay settlers own the cultivated tracks :

Sawah yang bĕrjinjang,
Pinang yang bĕrjijek,
Lĕmbaga yang ĕmpunya.

The stretches of ricefield,
The rows of areca-palms—
These all belong to the tribal headmen.

Ownership in Malaya went with real working-tenure. The law did not allow a landlord to lock up valuable land at his own discretion or to exact a heavy tax from would-be workers. To use a homely metaphor, it allowed the

dog-in-the-manger to levy toll on the cows to the extent of the value of the manger to the dog, while English law allows toll to be levied to the extent of the value of the manger to the cows. The difference is important. This Malay theory of ownership shows itself in the old Perak *chabut* system under which Chinese miners were free to work any land that the Malay owner did not himself care to work provided that they paid the landlord a certain small percentage of the tin extracted. The same theory, no doubt, inspired the cultivation-clauses and building-clauses in Federated Malay States grants. In any case, the Dato' of Rembau and his *waris* or "heirs" still draw a definite percentage of the land revenue of the country. Under the *adat pĕrpateh*, the real owner of a piece of land is the occupier or cultivator; the original owners who never developed it are only entitled to a small percentage-payment as compensation for their jungle-rights. This view of land-ownership is a very fair one. It encourages the development of a country without at the same time exterminating the poor aboriginal jungle-dwellers who know no art except that of the chase. In Rembau, at least, it worked very well and has made the *biduanda* tribe (the representatives of the aborigines) a very wealthy and powerful clan, that has picked up Malay culture and is more than able to hold its own with the descendants of the Sumatran settlers.

The right of ownership possessed by a cultivator commenced from the moment when he began to work the soil. To use the Malay dictum, it began—

Sa-bingkah tanah tĕrbalek,
Sa-hĕlai akar putus,
Sa-batang kayu rĕbah.

When the first clod of earth was turned over,
When the first trail of liana was cut,
When the first tree of the forest was felled.

It was rendered quite unassailable by evidence of long ancestral possession—

Pinang yang gaya,
Nyiur yang saka,
Jirat yang panjang.

When the areca-palms have grown tall,
And the coconut palms are ancient,
And the line of owners' graves grows longer and longer.

Indeed, what better title-deeds could anyone want?

Under the *adat pĕrpateh* ownership went with actual tenure, subject, in some places, to the payment of a small allowance to the descendants of the ancient races who had once possessed the land. But this ownership was qualified by one important condition: the land might only belong to women. No male in Rembau could own it. Every man lived on his wife's land or on his mother's and sisters' land; he cultivated the soil and was entitled to his maintenance out of the proceeds. Moreover, as the law of exogamy was strictly observed, every man had, sooner or later, to leave his own village and to settle in the village of his wife. Marriage within the maternal clan (*pĕrut*) was incest and was punishable with death. A man always migrated; a woman never did. In the words of the traditional saying: a man sought his fate (*mĕnchari untong*); a woman awaited hers (*mĕnanti untong*). With his change of home a man passed from the power of his mother's family into that of his wife's. His wife's relations became responsible for him.[1]

Orang sĕmĕnda bĕr-tĕmpat sĕmĕnda.

[1] Except in the case of finding a substitute for a murdered man. The substitute had to be provided by the murderer's own family, not by his wife's. This may have been due to the law of exogamy; the murdered man's widow would probably belong to the same village and would be prohibited from marrying a man of her own tribe.

As we have already seen, petty disputes in these little matriarchal villages used to be referred to the local elders, the *ibu bapa*, who had much influence but no official powers. Since we have already discussed the primitive common-sense justice (*chupak yang asli*) administered by these village-magnates, we now need only speak of the criminal law recognised in the higher courts of the *lĕmbaga* and *undang*. The key to the whole of Menangkabau justice is the rule—

Hilang darah ganti darah.
Blood for blood.

"A life for a life." This rule did not mean that capital punishment was necessarily inflicted. The fact that one family had been deprived of its bread-winner was no reason for rectifying matters by depriving another family of its bread-winner. Two wrongs do not make a right. The law of Menangkabau sought to restore rather than to punish; it compelled the murderer's relatives to provide a bread-winner or his equivalent for the support of the widow and children of the victim—sometimes in the form of a person,[1] sometimes in the form of blood-money as the equivalent of a man's services. If a criminal's "wife's relations" saw extenuating circumstances in what the man had done, they could save their clansman from the executioner. If they thought that their kinswoman had married disastrously they could get her divorced on the same absolutely fair terms:

Chari bahagi;
Dapatan tinggal;
Bawa kĕmbali.

[1] A man for a man; a woman for a slain woman. The substitute was adopted into the tribe of the injured persons.

Earnings (during marriage) are divided;
The wife's heritage is hers,
The husband's bringings go back to him.

The *adat pĕrpateh* tried to be absolutely fair; it sought to rectify a wrong and not to apportion blame.

Salah makan di-muntahkan;
Salah tarek di-kĕmbalikan.

The offences for which (in extreme cases) a criminal might be put to death are summed up as follows:

Dĕrhaka-dĕrhaki, sumbang salah,
Rĕbut-rampas, sior bakar,
Maling churi, kichang kichoh,
Upas rachun, tikam bunoh.

Treason, incest, robbery, arson, theft, cheating, poisoning and stabbing—these summed up the list of potentially capital crimes.[1] But the only men who really came to a bad end were the ne'er-do-weels for whom no village would accept responsibility. The position of a stranger in a strange land is—not without reason—a proverbially unenviable one among Malays; no Malay of substance ever was a stranger in a strange land.

The jurists of Rembau and Sri Menanti tried also to invent a rudimentary law of evidence by compiling a list of "indications of guilt" and other signs of the same sort. If a man was seen walking fast near the scene of a crime they condemned him at once, for no Malay with an easy conscience ever walks fast. If a man kept curious hours, they eyed him with suspicion; if he preferred the jungle to the village-paths, they called upon him for an explanation; if he answered at random when addressed, they considered him dangerously eccen-

[1] Some lists give many more capital crimes.

tric. Indeed, from their standpoint all eccentricity was an offence against *adat*; it is not the correct way of doing things. The most conclusive sign of guilt is, however, summed up in the proverb:

Ĕnggang lalu, ranting patah.
The twig breaks as the hornbill flies past it.

This cryptic utterance is only intended to suggest a coincidence that seems to be more than a coincidence. If the appearances of some tramp invariably coincide with the disappearances of our fowls we are apt to become suspicious of that tramp even though we may have no positive proof of his guilt. After a certain number more of such coincidences the suspicion—without positive proof—will develop into moral certainty. If a man's enemies happened to fall sick and die after quarrels with him, it was extremely difficult for that man to convince his fellow-villagers that he was not a dangerous wizard and that these little occurrences were only matters of coincidence. Many a poor victim in every part of Malaya has been done to death for sorcery on the evidence of "the flying hornbill and the breaking twig." On the whole, however, the old customary law of Menangkabau was reasonable and humane. It was a simple homely law of which its votaries were always proud. It was reverenced as a priceless possession; it was never to be amended or altered:

Di-anjak layu, di-aleh mati.
Uprooted, it withers; moved, it dies.

To many persons accustomed to the impartiality of English courts the praise lavished on the Menangkabau *adat* by its followers may seem a mere blind fanaticism;

but to those who compare it with the justice administered by native rulers in Siam, India, Burmah and Java, the simple and humane Menangkabau *adat* must seem fully worthy of the honour in which it was held as "a couch to the sleeper, a shelter to the wayfarer, a ship to the navigator, an ancestral estate to the cultivator—a true measure that no damp can mildew and no heat can warp."

THE ADAT TĔMĔNGGONG.

At the fountain-head of all tradition in the Southern Malay States there stands an ancient Hinduised kingdom of Palembang or Sarbaza that flourished between the years A.D. 900 and 1375 and finally perished, along with its daughter-city of Singapore, in the course of a terrible war with the Javanese of Majapahit. After the close of the fourteenth century these ancient States—Palembang and Singapore—disappear from the annals of our local history and are replaced by the famous Malacca sultanate which, as we all know, was overthrown by Albuquerque in A.D. 1511. The old Palembang tradition that had been borne by colonists from Sumatra to Singapore and then by fugitives from Singapore to Malacca was now carried on again by fugitives from Malacca to the island of Bintang, but in A.D. 1526 the Portuguese Viceroy Mascarenhas plundered and burnt the new Malay settlements and drove the sultan to Kampar in Sumatra. After further wanderings, the descendants of the old Malacca kings found in the upper reaches of the Johor river a refuge to which the deep-draughted galleons of Portugal could not safely follow them. Even there they were not left in peace. In A.D.

1613 and again in A.D. 1615 the shallow-draughted fleets of the Achehnese burnt Johor and carried off the Sultan Alaedin Riayat Shah III to die a captive in Acheen. After the capture of Malacca by the Dutch (A.D. 1641), Johor revived slightly—only to be plundered and burnt by the people of Jambi in A.D. 1677. Twenty-two years later the last of the long line of Malacca princes, Sultan Mahmud Shah II, was assassinated at Kota Tinggi. Civil wars and disturbances naturally followed. About the year 1717 Johor was taken by a Sumatran adventurer, Raja Kechil, who made himself sultan under the name of Abdul Jalil Rahmat Shah and transferred the capital from Johor Lama to Riau. In A.D. 1722 Riau was captured by the Bugis, who appointed a puppet of their own, a Sultan Sulaiman Shah, to be Sultan of Johor, Lingga and Pahang. The descendants of Sulaiman Shah's family are represented to-day by the Sultans of Trengganu and Lingga and by the dispossessed royal family of Kampong Glam. The descendants of Sulaiman's great officers of State—his *Bĕndahara* and his *Tĕmĕnggong*—are now Sultans of Pahang and Johor. The descendants of Sulaiman Shah's Bugis supporters are represented by the Sultan of Selangor and the Yamtuan Muda of Riau. Finally, the Sultan of Perak claims to represent the older dynasty, the Malacca sultans, whose direct line came to an end in A.D. 1699.

If, therefore, Malay law is studied in the light of Malay history, we can easily understand why the *adat tĕmĕnggong* (as the old Palembang jurisprudence is called) should cover so many important States and yet compare so unfavourably with the *adat pĕrpateh* of the humble villages of the Negri Sembilan. However excellent the Palembang law may once have been it must have

suffered terribly from the political calamities that so often overwhelmed Malacca, Johor and Riau. But we have no reason to suppose that the *adat těměnggong* ever was a consistent and coherent system. It simply represents the old Menangkabau jurisprudence—the true law of the Malays—in a state of disintegration after many centuries of exposure to the influence of Hindu despotism and Moslem law. Although to the casual observer nothing could be more striking than the apparent difference between the patriarchal and autocratic *adat* of Perak and the matriarchal and democratic *adat* of Negri Sembilan, the real differences between the two are largely superficial and are connected with the way the law is administered rather than with the actual law itself. Succession to titles and dignities in Perak follows the male line; succession to lands and houses suggests the *adat pĕrpateh*. It is not long since Sir William Maxwell penned the following words:

> In that State [Perak] the lands and houses of the deceased descend to his daughters equally while the sons divide the personal property. The latter are supposed to be able to create landed estates for themselves by clearing and planting land which they may select, or at all events to obtain the use of land by marrying women who may have inherited it.[1]

The Perak *adat* here described by Sir William Maxwell is practically identical with the law of the Negri Sembilan. It is a survival and is due to the fact that the Malays were once a matriarchal people and that they still pay more deference to women's rights than would be tolerated by Hindu or Moslem law. It is borne out by the custom—prevalent all over Malaya—of the marriage-ceremony taking the husband to live in the house of his bride.

[1] "Malay Land Tenure," p. 127. [*Journal of the Straits Asiatic Society.*]

The old matriarchal law may also be illustrated by the following passage from the early minutes of the Perak State Council:

> It is customary among Malays of rank or position for a husband to appropriate a particular house to the use of his wife at the time of the marriage. She is entitled to live there during coverture, and if she is divorced by the husband the house is regarded as hers and is assigned to her for her use during her life. According to Che Long Jafar's disposition of his property the *kampong* at Bukit Gantang went not to the Mantri but to his sister, Che Alang Sepiah, the mother of Che Puteh Hawiah.

Similarly, in that very important matter, the acquisition of title to land, the *adat tĕmĕnggong* takes the same view as the *adat pĕrpateh*. Maxwell says of the Perak and Malacca law:

> There is no restriction upon the selection and appropriation of forest land, and a proprietary right is created by the clearing of the land followed by continuous occupation. He who by clearing or cultivation or by building a house causes that to live which was dead (*mĕnghidupkan bumi*) acquires a proprietary right in the land which now becomes *tanah hidup* (live land) in contradistinction to *tanah mati*. His right to the land is absolute as long as occupation continues or as long as the land bears signs of appropriation.[1]

Throughout this definition of title to land we can see the similarity between the ideas of Perak and those of the Negri Sembilan. In the rules regulating the fencing of gardens and the penalties for trespass by buffaloes we can also trace a close resemblance between the *adat pĕrpateh* and the *adat tĕmĕnggong*. Indeed, we ought historically to expect such a connection. We know that the old kingdom of Palembang was a Malay country under a Hinduised government, and we would naturally be prepared to find that the *adat tĕmĕnggong* was only

[1] "Malay Land Tenure," p. 77.

the *adat pĕrpateh* administered on autocratic lines. But the law of Menangkabau was not well suited to a despotic system of government; it fell at once into decay. Its curious proverbial jurisprudence perished as soon as law ceased to be the property of the many and became vested in a few chiefs. Its mildness passed away when the community could no longer be held responsible for the faults of its members. It became uncertain or indefinite from the moment that princes and judges did not like to see their discretion fettered by any inconvenient rules and regulations. In the absence of precise rules, common sense came to be regarded as the only possible law, discussion as the only possible procedure. When in the early days of the residential system the Attorney-General of the Straits Settlements criticised the indefiniteness of Perak *adat*, the Resident replied that the state of society in Perak had not reached the point at which it would be advisable to define more particularly the offences that a chief was empowered to punish. Indeed, the whole spirit of autocracy is hostile to strictly-defined systems of law.

Nevertheless, the natural love of Europeans for documentary evidence has led several writers to attach considerable importance to the so-called "codes" of the Malays. In their joy at obtaining written laws they have not always scrutinised with sufficient care the authority that these old Malay codes really possessed, and so have come to suggest the existence of native magistrates who administered the *adat tĕmĕnggong* by charging prisoners under some section of the "Ninety-nine Laws of Perak" or of the "Malacca Code." Although it may seem presumptuous to question the importance

of laws quoted or translated by scholars like Raffles, Newbold and Maxwell, the fact remains that the authority of the Malay codes will not bear serious investigation. The "Perak Code," for instance, is made up of a series of ninety-nine legal dicta or judgments that purport to have been delivered by the Persian minister Buzurjmihr for the guidance of his master Nushirwan the Just. Are we to seriously imagine that these ancient Persian worthies knew anything about Malay *padi*-planting or about Muhammadan law? As an exposition of Malay theorising, the "Perak Code" is interesting; historically, it does not seem to have been considered authoritative. The old law of the country is thus described by those who actually administered it:

> The chief court of Kuala Kangsar administers, as far as it will go, the law of the country, and this law, *though unwritten*, is very generally understood. [*Perak Council Minutes, 1877-1879*, p. 19.]

Here we have the highest authorities in Perak ignoring the very existence of what is alleged to be their own code. In the same way, we may see that the "Malacca Code" will not bear criticism. Though written at a later date, it purports to represent the law that was once administered in the old sultanate of Malacca and is largely concerned with rice-planting and trading-ships. The trading-ships were not Malay but Bugis. The rice-planting in the old sultanate of Malacca is thus described in the records of the contemporary Chinese navigators who visited the place:

> The country produces no rice.

The "Malacca Code" is a modern work that was admittedly written at Riau under Sultan Sulaiman Shah in the days when the Bugis were all-powerful. The "Maritime

Code," written at the same time and place, is also inspired by Bugis *adat*. The true *adat tĕmĕnggong* of Malaya was an unwritten law.

The *adat tĕmĕnggong* was made up of ordinary Malay custom, administered by despotic authority and supplemented by a large number of sumptuary regulations drawn up for the glorification of the court. The latter feature appealed very much to the old Malays, as the following passage from Abdullah's diary will testify:

> I enquired of the Boarding Officer (at Trengganu): "Sir, what is the law of this country and what are the offences that I should avoid? We are strangers to the place and do not know its ways; we only want to purchase stores for our journey." He answered: "It is too early to do any marketing—all marketing is done in the evening—but the offences that you must avoid are the following: don't open your umbrella when passing through the raja's grounds; don't wear shoes; don't wear yellow clothes or thin linen: such things are absolutely illegal."
>
> On being told of this list of offences I thought to myself—with a smile at the folly of these useless laws—.....that it would be far more profitable for everyone concerned if they were to prohibit the use of opium with all its demoralising effects and the practice of gambling in all its many forms.....And if they are to have laws about clothing, why do they not prohibit the use of clothes that are filthy and have been left unwashed for months at a time?[1]

Yet this apparent fondness for trivialities is, historically, not hard to understand.

In the old Hinduised kingdom of Palembang the Malays acquired a very high ideal of sovereign power. A Malay *raja* was personally sacred. He was believed to heal diseases with his touch; he might perform miracles; he was considered almost invulnerable. He was immeasurably above his subjects, who were only

[1] "Pelayaran Abdullah," p. 29.

permitted to address themselves to the dust beneath his feet. He was the source of all honour and the fountain of all justice. In Moslem times he styled himself a Sultan, a Caliph, a Commander of the Faithful, a Shadow of God upon Earth. Any insult or indignity to a prince was sacrilege; it exposed the perpetrator to all kinds of spiritual punishments. Even to roughly handle a king's regalia was a deadly offence. If a commoner assumed the airs or attributes of a prince, if he wore the royal yellow or flew a royal flag, he was believed to expose himself to certain death at the hands of the ghostly protectors of royal dignities. The commoner had no rights whatever; the king could do whatever seemed best in his own eyes. Such, at least, was the theory of Malay government.

Under the circumstances it is not difficult to paint a very highly coloured picture of the immense improvement in the position of the Malay *ryot* since the introduction of the British rule. Theoretically, all despotic government is abominable; it ought to drive everyone to emigrate at once. In practice, however, life in a country like Russia is not entirely made up of pogroms, nor is existence in a native sultanate quite as black as some writers have depicted it. The most truthful account of it is that given by Sir William Maxwell:

> In a Malay State, the exaction of personal service from the ryot is limited only by the power of endurance of the latter. The superior authority is obliged from self-interest to stop short of the point at which oppression will compel the cultivator to abandon his land and emigrate. But within this limit the cultivator may be required to give his labour in making roads, bridges, drains and other works of public utility, to tend elephants, to pole boats, to carry letters and messages, to attend his chief when travelling, to cultivate his chief's

fields as well as his own, and to serve as a soldier when required. Local custom often regulates the kind of service exacted from the cultivator in a particular district. Thus, in Perak, one district used to supply the *raja* with timber for building purposes, while rattans and other materials came from others; the people of one locality used to furnish the musicians for the *raja's* band while another had to provide nurses and attendants for his children.[1]

In theory the sultan was omnipotent; in practice he knew the limitations of his power. For his authority and even for his own safety he was dependent on the forbearance of his people and the loyalty of his chiefs. In spite of their extraordinary reverence for kingly dignity the Malays did not believe in primogeniture or in the divine right of any particular member of a royal house. They were always ready to put a younger brother over an elder if the elder was unworthy. Within quite recent times they passed over the Raja Muda Abdullah in Perak, the Raja Muda Mahmud in Selangor, and the senior heirs to the high positions of *Bĕndahara* in Pahang and of *Tĕmĕnggong* in Johor. Instances of similar "usurpations" might easily be multiplied. In any case, history made it quite clear to every Malay prince that he could not afford to be too unpopular. Still less could the great vassal chiefs be indifferent to the feelings of their own followers. Having to hold their own against the jealousies of their neighbours and the exactions of their suzerains, the chiefs dared not allow their districts to become impoverished, depopulated, or disaffected. Malay proverbial literature, though very bitter against princes, is kindly in its tone about the chiefs. It helps us to understand why Malay misrule was so tolerable that men would sometimes even leave British territory and settle in a Native State.

[1] "Malay Land Tenure," p. 108.

But the system of government in a Malay sultanate did not lend itself at any time to the proper administration of justice. At its best it encouraged a chief to assist his own followers against the stranger, it never put a premium on the chief doing justice to the stranger at the cost of his own men. In a country district where the people all acknowledged one common territorial chief, justice might be honestly administered; but in places where rival magnates existed the quarrels of followers were simply passed on to their patrons. Litigation—in cases where the litigants did not take the law into their own hands—became a matter of diplomatic negotiation between the nobles who championed either side. On one of these occasions—in the old city of Malacca—a certain chief asked the sultan to surrender an offender. The sultan demurred. When the matter was pressed the sultan procrastinated in order to allow time for the chief's wrath to pass away, but at last handed over the criminal with a request that the chief might be merciful to his captive. The chief replied by taking up his elephant-goad and splitting open the prisoner's skull in the sultan's very presence. A criminal was a prize to be fought for; he was not a man to be tried.

The best parallel to the system of government in the old Malayan trading-centres is, perhaps, the case of the old Italian towns where the palaces of the nobles were simply so many rival fortresses, and where the population was divided up into Guelphs and Ghibellines or into followers of the great princely houses. Every citizen had to find some patron or protector. Such a system, of course, put a premium on bribery and blackmail. The "Malay Annals" tell us that in the good old days of Sultan Mahmud, the trading captains who visited

Malacca used to say that the place produced three admirable things: bananas (*pisang jarum*), the water of Bukit China and the justice of the Bendahara Sri Maharaja. But the Annals admit that the Bendahara took "presents," and contemporary Chinese traders gave the following account of the place:

When a word is used which does not please them, the Malays at once take to the *kĕris*; and if a man is killed in this way the murderer runs away to the mountains and hides himself there for some time. When he comes back again the relatives of the deceased do not seek revenge and the Orang Kaya does not look into the matter any more.

The poorer people often make themselves guilty of robbery; when they meet a single stranger they kill him and rob his effects.

They say that it is better to have slaves than to have land, because slaves are a protection to their masters.

For slight offences they use whipping; their capital punishment is impaling.

Every commoner for his own protection had to buy the patronage of a powerful chief. If he was wronged, he asked the chief to take up his case; if the chief dared not do anything the injured party had either to abandon the suit or to take the law into his own hands. Vendettas were frequent and bitter. The judges sat armed and did not hesitate to kill the prisoner if he insulted them or questioned their jurisdiction or impartiality—as he might very well do. But the worst feature of the old Malacca system was the employment of unscrupulous retainers, bands of idle bullies who were ready to commit any crimes in their master's interest. On one occasion a sultan gave a quid of betel-nut to a humble follower. By way of a guess at what this significant mark of honour might indicate, the follower went back and slew the last man to whom the sultan had been seen to speak. He was not punished for his

zeal. Did he interpret his master's mind aright? History cannot tell us. The story only shows how extremely difficult it is to speak positively regarding any sultan's complicity in an assassination.

The aristocratic and autocratic rule, introduced by the old Hindu civilisation and known to Malays as the *adat tĕmĕnggong*, degraded and destroyed the primitive Menangkabau law. Yet, in a sense, it is supposed to represent progress. It led to a higher material civilisation; it developed class distinctions and court-life; it brought new blood and new ideas into Malaya; it opened up the country; it created fresh wants and stimulated trade with foreign countries—in short, it did many of the things that British rule is believed to be doing at the present day. The followers of the *adat tĕmĕnggong* are, therefore, prone to despise the votaries of the *adat pĕrpateh*: "dull-witted are the men of Menangkabau who have no footing on the sea." In the eyes of the men of Johor, Perak or Malacca, the Negri Sembilan Malay is a sort of narrow-minded country-cousin whose *adat*, though suited to his own village, is not adapted to the needs of the great world outside. There is some justification for this opinion; the value of Menangkabau *adat* does not lie in the work that it is actually doing at the present time. None the less, the highly specialised *adat pĕrpateh* possesses the greatest possible interest to the student of primitive jurisprudence, while the cosmopolitan *adat tĕmĕnggong* is too indefinite and illogical to possess any legal interest whatever.

MUHAMMADAN LAW IN MALAYA.

Although the Koran is always asserted to be the ultimate authority for Moslem law, a single holy book can never be sufficient in itself to serve as a guide to magistrates in the settlement of the many issues that come before them. Even in the early days of Islam the Koran had to be supplemented. Its simple precepts were interpreted by the help of traditions of what the Prophet himself, as a ruler and judge, had said and done, or by what he had advised others to do. The many "helpers" or "companions" of Muhammad—while they lived—could always testify to the words and deeds of their master; when they died, their testimony was quoted for the guidance of those who came after them. The law thus became dependent on second-hand or third-hand oral "traditions" of what the Prophet had said or done—a confused mass of rulings that were often incorrectly repeated and quite misunderstood. Moreover, these *hadith*, as they were called, became uncomfortably numerous. The great jurist, Ibn Hanbal, is said to have collected no less than 750,000 of these sayings of the Prophet, and he accepted about 35,000 as authoritative. Textual criticism was a very simple matter in those days. The present text of the Koran was arrived at by the primitive expedient of preserving one manuscript and burning all the rest, while the choice of these *hadith* or "traditions" came to be decided more by dreams and prayers than by the weight of serious evidence. Rough methods of this sort can, however, be very effective, and no modern Sunnite Moslem would venture to question the accuracy of the Koran-text or the inspiration of that great mass of anecdotal matter which makes up the traditions of the Prophet.

Next in authority to the Koran and the tradition comes the *ijma'* or "consensus" of the authorities quoted by the four great jurists of Islam. These four men were not official expounders of the law; they owe their authority entirely to their personal renown as men of learning and sanctity. The first, Abu Hanifah (A.D. 702-767), was actually scourged for refusing to serve as a judge, and he died in prison rather than accept office. The second, Malik (A.D. 716-795), was flogged by order of the Caliph Al-Mansur on the charge of holding mistaken opinions. The third, Shafeï (A.D. 767-820), was a very retiring student and teacher, who only began to write in his forty-seventh year and died in his fifty-fourth. The fourth, Ibn Hanbal (A.D. 786-863), was scourged by order of the Caliph Al-Mamun for holding the view—now accepted by Islam—that the Koran was not created but had existed from the beginning of time. These four jurists agree on all major points; whenever they agree, their "consensus" settles a question for good and all. On some minor issues they differ. Abu Hanifah was essentially a lawyer. He was described by Malik as "such a person that if he were to assert that a wooden pillar were made of gold he would prove it to you by argument." Malik was a true theologian; on his death-bed he severely condemned himself for having allowed his own fallible reason to occasionally influence his legal opinions. Malik was the instructor of Shafeï; Shafeï taught Ibn Hanbal. There is, therefore, a certain distinction between the followers of these last three (who are known as "traditionists," *ahl-i-sunnat*) and those of Abu Hanifah who are called *ahl-i-kias*, or "disciples of reasoning by analogy." Modern Turkey is Hanifite; so are Northern India and Turkestan. Morocco and Algeria

are Malikite countries. A few fanatical Hanbalites are found in the wilds of Arabia. Egypt, Southern Arabia, Southern India, and the Malay Archipelago are Shafeite. The student of British Malaya is, therefore, mainly concerned with the teachings of Shafeï.

The Imam Muhammad bin Idris ash-Shafeï, an Arab of the tribe of the Kuraish, was directly descended from Abdu'l Muttalib, the Prophet's grandfather. From his teacher, Malik, he had derived a very great respect for tradition, but he did not blindly accept it all. Modest and unassuming in character, he did not force his views on his disciples; he allowed people to disagree with him so long as they showed proper respect for the main doctrines of Islam. The weakness of Shafeï's system is, perhaps, best shown in the character of the most famous follower of his school, the great Saladin, who was a pattern of personal merit, but whose horror of impiety led him to put to death anyone who broached very unorthodox views about religion.

The Malays never accepted Moslem law in its entirety. They were quite prepared to adopt it in purely religious matters, such as the control of mosque-lands and the levying of tithes; but when it came to the serious business of life—such as contract, sale, slave-right, land-tenure, debt and succession to titles and real property—the chiefs continued to observe their own *adat* or customary law. They were probably right to do so; an abrupt transition from one legal system to another leads to innumerable cases of injustice. Law should be coincident with what may be called national common sense. No Englishman knows the whole of his law, but he feels that if he acts in accordance with morality, custom and common

sense he is not likely to go far astray; would he feel as safe in a foreign land even if the alien system of jurisprudence was logically superior to his own? The Malays recognised the theoretical merits of Moslem law but they decided that in matters of every-day life they would do well to adhere to customs that were known to all. The religious law gained ground very slowly. It had to fight against the ignorance and innate conservatism of the people, against the lawless ways of the chiefs, and against the discreditable behaviour of its own unjust judges. There can, however, be no doubt that Moslem law would have ended by becoming the law of Malaya had not British law stepped in to check it. An unwritten code can only be perpetuated by constant observance; every violation of the *adat* by some powerful chief had the effect of weakening the customary law. Moslem law was in a different position. It rested on something stronger than mere observance and was recorded in imperishable literature. It was gaining ground everywhere when the British authorities came into Malaya and limited the scope of religious law (in the Colony, at all events) to issues affecting the validity of marriages and divorces and the legitimacy of children.

Muhammadan jurisprudence regards marriage as having for its primary object the perpetuation of the human race. It confers upon the husband such rights over his wife as may be absolutely necessary to carry out this theory, but it does not permit him to reduce his wife to the position of a household slave or instrument of pleasure. Marriage is effected by a nuptial contract. This contract must be made in the presence of competent witnesses and must be assented to by both husband

and wife either directly or through their accredited representatives. It must be absolute and may not contain any provisions irreconcilable with the theoretical aim of marriage. It must be entered into for an indefinite period (till death or divorce), not for a specified time like a week or a month. It must be actual and not promissory: a mere agreement to marry at a future date is not a valid contract. Under Shafeite law a marriage may be declared null and void if either party is scrofulous, leprous, insane or a sufferer from certain permanent congenital defects which prevent it becoming a reality. A Moslem man may marry a Moslem or *Kitabiah*[1] woman, but not an idolatress; he may be the husband of not more than four women at one and the same time. A Moslem woman may only marry a Moslem and must not have more than one husband at a time; she is entitled to as much time in her husband's company as he devotes to her fellow-wives, but she cannot claim an equal share of his affections, for love is not to be given at will. The prohibited degrees of affinity are summed up in the statement that a man may not marry:

(*a*) his mother, grandmother, daughter, grand-daughter, sister, aunt or niece;

(*b*) a present wife's mother, grandmother, daughter, grand-daughter, sister, aunt or niece;

(*c*) a woman bearing to him any of the above relationships by fosterage;

(*d*) a widow or divorced wife of his father, grandfather, son or grandson.

It should be added that the above rules do not prohibit a man marrying the sister or near relative of his deceased

[1] Christian or Jewish.

or divorced wife; they forbid his being married to two very near relatives at the same time.

The above statements summarise the Moslem law of marriage except in so far as it deals with the obsolete question of slavery. The law seems simple enough, but its interpretation in special cases has inspired a vast literature. What are the necessary words in a marriage contract? Is a Christian a competent witness? Can he give a Muhammadan girl in marriage? What is the legal effect of a guardian's carelessness in attending to the interests of his ward? What is to be done when an agent exceeds his instructions and marries his employer to the wrong woman or to two women—especially two sisters—at one and the same time? What course is a husband to pursue if a Christian wife demands payment of her dowry in pork? What exactly constitutes relationship by foster-age? If a man is married to two wives—the one an infant, the other an adult—and he finds the elder wife suckling the younger, what does the law expect him to do? If the law compels him to divorce both (one being now a wife's foster-mother and the other a wife's foster-child) must he forfeit their dowries through no fault of his own? It is quite clear that we cannot follow the marriage law through all its intricacies. A Malay bride's *wali* or guardian usually employs an agent or *wakil*. This *wakil* is a man versed in the law; he knows the proper Arabic formulæ by heart and he supplies competent witnesses for the ceremony: in this way the validity of a marriage is ensured. But it must always be remembered that the average Malay looks upon the true religious ceremony much as a French father looks upon the civil procedure which validates a marriage; it is sufficient for legality but for nothing more. The true

Malay wedding-ceremonies lie outside Moslem law: the henna-staining festivity, the bridegroom's procession, the mimic fights, the ceremonial ablutions of the newly married pair—all these prominent features of a Malay marriage belong to an older law than that of Shafeï. A wedding before the religious authorities is like a marriage before the registrar; it is tolerated only. A Malay would consider that his daughter had disgraced herself if she was satisfied with a marriage before the local *kadzi*.

Again, according to Shafeï, no woman can give herself (or anyone else) in marriage. If a girl is a virgin and under age, it is considered immaterial if she even consents to a marriage, for what can she really know about the meaning of the contract? In its eagerness to protect the interests of virgin minors the Shafeite law has rather overreached itself. It trusts no guardian except an ascending agnate. It presumes that a father or grandfather will have sufficient affection for a young girl to allow of his being entrusted with the power of giving her in marriage, but it does not presume the same of an uncle or even of a brother. This point creates a difficulty in countries like Malaya where immature orphan girls are occasionally wanted in marriage. The difficulty is got over by the fact that Shafeï allows his disciples to differ from him on isolated points. The marriage of minors is therefore a point on which guardians find it occasionally convenient to disagree with Shafeï; they adopt the view of Abu Hanifah that a guardian can give an immature ward in marriage provided that she is permitted to repudiate an unsuitable marriage contract when she comes to years of discretion. This expedient is known as *balek madzhab* or *balek madahap*—"going

back on one's school of law." Not that the average Malay parent understands the real points at issue. He does what he is told to do by his legal advisers, who take advantage of this expedient in order that they may surmount a difficulty. Sometimes the hindrance is of another sort. It may happen that a girl's legal guardian puts difficulties in the way of her getting marrried. In such cases the *kadzi* is entitled to step forward and to call upon the guardian to do his duty by the girl or to renounce the position of her custodian. "To her that hath no *wali*"—so runs a traditional saying of the Prophet—"the civil authority is *wali*": the guardian by birth resigns his position, and the guardian by law takes his place. If there be no *kadzi* available, a girl may go with her prospective husband before any person who has the education of a *kadzi* and can ask that person to act as arbitrator and even to give her in marriage should he think it advisable. Islam considers that it is the duty of a guardian to find a suitable husband for his ward.

The Malay rules regarding the "dowry" or settlement made by the bridegroom on the bride are very interesting because they represent a curious compromise between Muhammadan law and ancient Indonesian custom. Moslem jurists recognise one payment, the *mahr*; Malay customary law insists on a whole series of conventional presents, beginning with betrothal and sometimes continuing till the birth of the first child or even later. A sort of compromise has been arrived at by identifying one of these many presents, the *mas kawin*, with the Arabic *mahr* or dowry. The *mas kawin* appears, in former times at least, to have been a mere fee or customary wedding-payment and to have been sometimes fixed so high as to discourage marriage in im-

poverished districts and sometimes so low as to be no check on hasty divorce. All this is quite wrong, from the Moslem point of view. The *mahr* is not a payment or present to a woman's relatives; it is a settlement on the bride herself who can claim it as her absolute right. This Moslem view is gaining ground. Every Malay woman now gets either a dowry or a deferred dowry—a sum of money which the husband must pay her if he divorces her without sufficient cause. This deferred dowry is a real check on hasty separations. The old theory of a "customary payment," however, shows itself in the fact that in many districts the amount of the dowry is conventional and does not depend on the wealth of the contracting parties.

The Moslem check on hasty divorce is the *mahr*; the old Indonesian check seems to have been what is known as the *sharikat*. In districts where the dowry is more or less fixed by convention we find that a divorced wife or widow has a claim on her husband's property to the extent of one third of their "joint earnings." The calculation of this third is of course a matter of great difficulty and leads to endless disputes. An arbitrator is usually called in; he makes an approximate estimate of the increase in value (if any) of the husband's property during the period of the marriage and he allows the wife or widow her share. Malay public opinion is also in favour of considering that all jewellery and all household requisites—such as pots and pans—are the absolute property of the divorced wife or widow. The fact is that ancient Malay custom gives a woman a better status than she gets from Moslem theory. In Rembau, a Malay may not even marry a second wife without obtaining the special sanction of the ruler of the country,

while, in other States, the first wife's consent is expected before a second wife is taken. All this is quite unnecessary according to Muhammadan law.

In order to avoid disputes as to the paternity of children the law forbids the speedy remarriage of widows, of divorced women and of women whose marriages have been annulled after consummation. It prescribes a period of time (called the *iddah*)[1] during which a woman is not free to marry again, and it gives her the right (if divorced) to claim maintenance from her husband during the whole duration of her *iddah*. An ordinary decree of nullity of marriage is treated as a divorce; it does not render the children illegitimate, nor does it deprive a woman of her rights to dowry and maintenance.

Like the law of marriage, the Moslem law of divorce is very simple in its main provisions but difficult of interpretation in occasional instances. A man may divorce his wife at any time, with or without cause for complaint against her; a wife may divorce her husband by simply "redeeming" herself or paying him compensation for the loss of his conjugal rights. Divorce does not even entail the parties going before a court or registrar: it is perfectly valid wherever pronounced and whether witnesses are present or no. Such, at least, is the theory. In practice, however, things are very different. A man who divorces his wife has to pay her a certain amount of money for dowry and maintenance and has to meet a good deal of hostility on the part of her relatives and a good deal of unwillingness on the part of others to allow him to marry a second time.

[1] Three clear periods of purity, or about 100 days. But if the wife is pregnant she may not re-marry till she has been delivered.

Moreover, if a man does not divorce his wife formally and with proper publicity he is liable to have the facts disputed and to expose himself to expensive litigation. In practice, therefore, an ill-assorted marriage is only dissolved after much family discussion and with the full knowledge of the *kadzi*, who listens to both parties and tells them what to do and how much they will have to pay or to receive.

In theory there are two kinds of divorce—the *talak* or divorce by the husband, and the *khula'* or divorce by the wife—but from a popular or practical point of view, there are six different kinds of divorce: (1) the provisional divorce, (2) the incomplete divorce, (3) the full divorce, (4) the absolutely irrevocable divorce, (5) the divorce by mutual consent and (6) the divorce by redemption or purchase. The provisional divorce comes about more or less in the following way: when the marriage ceremony is over the bridegroom is sometimes requested to pronounce a *talik* or formula of conditional separation, such as "If I absent myself for six months without sending any letter or money to my wife she is divorced." In a country whence people are apt to emigrate in search of a living or to disappear on pilgrimages to Mecca, the position of a deserted wife would be intolerable but for some expedient like the *talik* which enables her to go before a *kadzi*, prove her case, and obtain from him an assurance that she is free to marry again. An incomplete divorce (the first or second *talak*, as it is called) arises as follows: if a man says to his wife, "I divorce you," and then repents of his action, he may "recall her" at any time up to the expiration of her *iddah*, but he can only exercise this right of recall twice; on

the third *talak* the separation is permanent. The complete divorce (the third *talak*) takes place when the period of recall has been allowed to lapse unutilised or when the privilege of recall is no longer allowed, or when three successive divorces are pronounced—*e.g.*, "I divorce you once, I divorce you twice, I divorce you thrice." In such cases the husband usually counts out to the wife three articles such as three pieces of paper or three bits of areca-nut so that there may be no misunderstanding about the number of divorces pronounced. After a complete separation of this sort the parties cannot come together again without a formal marriage ceremony. Muhammad, however, to check hasty and ill-considered separations, made it a law that the remarriage of fully divorced persons was not to be permitted unless the woman had in the interval been married (by a fully consummated marriage) to a third party. This intermediate marriage is, of course, a very serious check on hasty divorce. In the very rare event of a man fully divorcing and remarrying the same wife twice—making with the original marriage three marriages and divorces in all—he is not permitted to remarry her any more; this is the absolutely irrevocable divorce. The divorce by mutual consent takes place when an arbitrator is called in by both parties to decide what is to be done; technically, this is an ordinary divorce by the husband (who is made to pronounce it), but it does not necessarily involve the financial consequences of the ordinary *talak*. The sixth kind of divorce or "divorce by purchase" is a separation at the instance of the wife. A tradition of the Prophet tells us that a certain woman went to Muhammad and made a complaint against her husband. Muhammad advised

her to surrender her dowry so as to induce her husband to divorce her. "I will give that and more," said the woman. "Nay, not more," was the reply. Moslem law sets its face against the husband using his position to extort an unfair amount of compensation from the wife, but it allows him to claim something more than the dowry that he himself has paid. Malay custom has it that the dowry shall be returned doubled. This form of divorce does not entail an intermediate marriage should the parties repent of their action and decide to marry again. It is, however, rare. A Malay woman cannot usually afford to pay a double dowry and she has other methods of exasperating her husband into divorcing her —one favourite method being to lock him up in his house and then (in the hearing of the neighbours) to scream out some interesting but abusive details about his most private affairs.

We have now dealt with the principal elements in the Moslem law of marriage and divorce. We can easily see that the strictly legal position of the wife is unsatisfactory owing to the preponderant consideration given to the authority of the husband. Muhammad found woman in a state of subjection; he could not release her altogether from the results of centuries of hardship, but he did much to improve her position. He insisted on her being treated with respect, he gave her certain absolute rights to dowry and maintenance, and he checked hasty and inconsiderate divorce. Modern Moslem law, however harsh in theory, can be readily adapted to meet a woman's interests. If a father wishes to secure his daughter against the risk of her husband marrying other wives, he can do so by stipulating for a heavy deferred dowry and for a conditional

divorce to come into effect if a second wife is taken. The husband, in such a case, has so much to lose that he dares not marry a second wife in the lifetime of the first. If a man wishes to protect his daughter against the evils of desertion, he can do so by the *talik* process which has been already explained. If a man who is married to four wives wishes to keep them and yet legitimize his son by another woman, he can do so by arranging for one of them to divorce him by the *khula'* process; he thus becomes free to marry and divorce the child's mother and then to remarry his original wife without the unpleasantness of seeing her wedded to someone else as required by the ordinary *talak* procedure. If a marriage is pronounced invalid through no fault of the wife, English law brands the children as illegitimate; Moslem law on this point is kindlier than ours. Much may be made of the fact that a Muhammadan, besides having four wives, can have as many slave-mistresses as he pleases. Moslem law did not, however, create or insist upon slavery; it found the institution in existence and regulated the position of the slave. Apart from the slave question—now, happily, a thing of the past—Muhammadan law does not allow a man to have mistresses; it punishes the adulterer with death. The profligacy of wealthy or princely Malays is not to be attributed to their religion, but is largely ascribable to the fact that English law tolerates the laxer features of Islam without enforcing the stricter.Even, as matters stand, a special enactment[1] has been introduced of late years into the Malay States to enforce more rigid rules of morality among Moslems than among Christians. This step was taken at the request of the Malays themselves.

[1] "Muhammadan Laws Enactment."

The law of marriage and divorce is the only branch of Muhammadan jurisprudence that is fully recognised in the Straits Settlements courts, but certain other branches are worthy of special notice. The first is the law of testamentary and intestate succession which is accepted by Moslems in the Federated Malay States and is often followed (though not the true law) in the Straits Settlements. On the question of testamentary succession the following tradition (recorded by one of the Prophet's contemporaries) is worth quoting in full:

> In the year of the conquest of Mecca, on my being taken so extremely ill that my life was despaired of, the Prophet of God came to pay me a visit of consolation. I told him that, by the blessing of God, having a great estate but no heirs except one daughter, I wished to know if I might dispose of it all by will. He replied, "No," and when I severally interrogated him if I might leave two thirds or one half he also replied in the negative, but when I asked if I might leave a third, he answered, "Yes, you may leave a third; but a third to be disposed of by will is a great portion and it is better that you should leave your heirs rich than in a state of poverty which might oblige them to beg from others."

In accordance with the principle so laid down, a man may dispose of one third of his property by will, but he has no right to use his power in such a way as to defeat the aims of the law of intestate succession. In actual practice, when a Malay makes a will, he does so in order to leave money to charity or to the mosque authorities as a sort of fine for having neglected his religious obligations during his lifetime; he does not make a will to favour one heir at the cost of another, nor has he the power to disinherit. If all the heirs are willing to agree to an unequal distribution of the property among themselves, they are at liberty to do so, but they are not compelled to recognise any special legacy made to one or more of

them out of the available third of the estate. The object of this limitation of testamentary power is to prevent favouritism and family disputes. The Colonial courts recognise wills that are in accordance with English law even though the wills may violate the doctrines of Islam; but no respectable Malay would use the privileges granted him by an "infidel" government to commit an offence against Islam. We thus really get a double system. The judge or district delegate gives powers under our law to an administrator or executor—and then this administrator or executor, with the full approval of the legatees or heirs, distributes the property on the lines of Moslem custom. One law is professed and another is followed. On the whole, not very much injustice is done; but it is, perhaps, to be regretted that British courts should subsidize, so to speak, the violation of the commands of the Prophet. In the matter of law, as on the question of morality, the Anglicised or "enlightened" Malay of the Straits Settlements may often be the worst offender against his own national or religious codes.

The Muhammadan law of intestate succession differs materially from that of England. To begin with, there is no law of primogeniture in the disposal of real property. Next, there is the rule that a man's share is twice the share of a woman. Thirdly, we have the Moslem principle that the nearer heirs exclude the more remote—thus, children exclude grandchildren from inheriting, even though some of the latter may represent deceased sons or daughters of the legator. Finally, there is the point that people inherit *per capita* and not *per stirpes*: for instance, if a man leaves no surviving sons but five grandsons, all the grandsons

inherit equal shares even though four are the sons of one father and the fifth an only son. If the rules as to dowry are considered to be a set off against the reduced rights of inheritance allowed to women, the only point that seems thoroughly inequitable in the Moslem law of intestate succession is the exclusion of the children of a deceased son from participation in their grandfather's estate should their uncles be alive to inherit it. Yet, even here we must not be too hasty in condemning. Muhammad himself, a posthumous son born in the lifetime of his wealthy grandfather Abdu'l Muttalib, suffered from this very rule of law, but such was the bond of family feeling (which compelled uncles to look after their fatherless nephews) that the Prophet, on becoming all-powerful, did not alter the law though it had deprived him of a share in the ancestral estate. The whole aim of Moslem law is to maintain the moral bond connecting the members of a family, and we very rarely hear of any Malay who has wealthy relatives being thrown upon the charity of the community.

The Muhammadan law regulating religious endowments (*wakf*) deserves attention owing to the frauds than can arise out of the differences between it and English law. Unlike many religions Islam is very chary about accepting endowments. If a man build a mosque with the avowed intention of giving it to the public, the gift is not legal until a public religious service has been held in the completed building. If a man presents a fountain, the fountain must have been built and used before the man and his heirs lose their right to it. If the gift takes the form of an appropriation for mosque revenues, the property must be actually handed over to the local authorities before it

ceases to belong to the donor. English law is different; it attaches great value to documentary transfers. It therefore allows certain abuses to spring up. In some cases, trust-deeds are drawn up that reserve rights to a donor's family, the object of such deeds being practically to secure an entailed income for a man's descendants, thereby evading death-duties, defeating the law of intestate succession and keeping up a lasting position for a family. Another abuse rests upon the English rule that thirteen years' undisputed and absolute possession of landed property gives a title to it. A Muhammadan trustee may not sell or alienate mosque-property, but he is enabled by English law to convey it away by collusion. The Acheen Street Mosque in Penang has lost property of enormous value through adverse occupancy. A third abuse has now been put an end to by recent land laws. In former times, a man could convey land to a mosque by a trust-deed without registering the conveyance or actually handing over the property in the manner required by Moslem jurisprudence. Under its own religious law the mosque could not claim the property; under English law the man's creditors could not seize it. In this way a man might go on for years drawing revenue from lands and houses that ought either to have been devoted to religious objects or to paying his lawful debts. Finally, at the man's death, the mosque (under Moslem law) lost all claim to an endowment to which effect had never been given.

This last point invites attention to a very interesting difference between Malay and English legal notions—the importance attached by the former to oral and by the latter to documentary forms. The Malay desires

proper publicity where the Englishman wants a durable record. If a Malay wished to convey a house to his son, he called in all the neighbours, told them all the facts, and then installed his son as master of the house. His idea was that such proceedings and such publicity made future disputes impossible. He would have looked upon a deed or document as a very tricky business when compared with the honest method of taking the whole world into one's confidence. Although the old Malay practice is more suited to primitive societies than to the requirements of modern commerce, it rests upon foundations of sound common sense. In Penang, at least, a good deal of fraud was perpetuated by secret conveyancing before the present registration laws gave a certain publicity to land ownership. The reasons given for introducing partnership registration in Singapore also rest on the fact that secrecy helps fraud. When once the proper publicity has been secured, the Malay—like all Asiatics—prefers the evidence of things to the evidence of words. He likes to have something to show. If a man wishes to trump up a case against his enemy, he hides stolen goods or illicit chandu or coining implements in his enemy's house. He does not trouble himself so much about suborning false witnesses, he leaves that to the defence. As prosecutor, he is content with the "sign" (*tanda*) or *corpus delicti*, and with the evidence of the police.

A legal detail of some importance is the question of the form of oath to be administered in courts of justice. Contrary to the generally received opinion in the Straits, the Malays (and many other Asiatics) have the greatest possible respect for the sanctity of an oath, provided that the oath is taken on something really binding. It

is quite a common occurrence in the Straits courts for a case to be stopped in order that the parties may take an oath in a mosque or at a shrine (*kĕramat*) or by cutting off a cock's head. Men who would disbelieve a whole host of witnesses will abandon a prosecution at once if the defendant will swear in proper form that he is innocent. Purgation by oath is not simply a Malay custom; it is fully recognised by Moslem jurists and goes far to disprove the reckless assertion that a native is ready to perjure himself at a moment's notice. Unfortunately, the formula prescribed in the Straits courts[1] is not a valid oath. The form at present in use runs: "I swear in the presence of God Most High that I will speak the truth, the whole truth, and nothing but the truth." Muhammadan law insists—on the authority of the Prophet himself—that oath shall be either "by God," "by the name of God," or by God under some such designation as "the All-Merciful." "Whoever takes an oath otherwise," said the Prophet himself, "is verily a pagan." To swear "in the presence of God" is precisely one of those evasions that Muhammad so severely condemned. Nor does the formula even possess the merit of being a real affirmation; it omits the prescribed technical term. The fact is that the swearing of witnesses in our courts is looked upon by many respectable Malays as a profane farce; the famous writer Abdullah tells us in his autobiography that he refused a well-paid interpretership rather than administer the oath to witnesses.

Another very radical difference between Moslem and English ideas of jurisprudence lies in the relation between the executive and the judicial power. The English theory separates the two functions; the Muhammadan

[1] The F.M.S. formula is different.

ideal unites them. The model judge, according to Malay ideas, is the man who will listen to a tale of wrong and then take steps to help the oppressed and to bring the oppressor to justice. The English idea is to give a man a summons and then let him fight his own case as best he can, though he may have no legal knowledge and no notion of what can be admitted as evidence. In country districts a District Officer, knowing a good deal about the parties to a case, is inclined to be indulgent to a respectable but garrulous witness who will not keep to the point or observe the rules of evidence, but, in the towns, every native has to work up his case and arrange his testimony before he comes into court. If he can afford it, he engages counsel; if he cannot pay for a properly qualified advocate, he engages a native hedge-lawyer who tells him what to say and how to say it. Of course, this system of working up cases rather puts a premium on perjury and on professional witnesses, and tends to turn a judicial proceeding into a mere contest of cunning. Secret societies, though they aid malefactors, are often only a sort of insurance against the risks of malicious prosecution. The Moslem theory of jurisprudence takes the view that a judicial proceeding is an investigation in which the judge is not an umpire but an active seeker after truth. It also draws a more marked distinction than we draw between issues of fact and issues of law. The *kadzi*, or judge, investigates a matter and decides as to the facts. If he is doubtful as to the law, he states a case for the consideration of the legal adviser or *mufti*. In no case does Moslem jurisprudence allow a doubtful or novel point of law to be decided by a man whose sympathies may be affected by the facts that are in issue. The doctrine that "hard cases make bad law" is very

practically applied. Another difference between English and Muhammadan law is that the latter is theoretically unchangeable. A ruler may supplement but he cannot alter the law of the Prophet, however unjust the law may seem. It is a great tribute to the virtues of Moslem jurisprudence that ten centuries have not made it out of date. We, who suffer from the uncertainty of an ever-changing statute-book, will do well to compare the enduring character of the work of the ancient and primitive Arab jurists with the composition of the highly educated draftsmen of our own local laws.

Another striking feature of Moslem jurisprudence is the fact that a man learned in the law is forbidden to seek office as a judge and is even directed to refuse a judgeship should the post be offered him, provided, of course, that other satisfactory arrangements can be made for carrying on a necessary work. It was not for a mere whim that the great Arab jurist, Abu Hanifah, suffered scourging and imprisonment rather than become a *kadzi*. The Moslem ideal was that the study of the divine law should be absolutely free from the taint of self-seeking. In a sense this was only an ideal, for in the days of Malay rule and even in the days of the caliphs the official judges were usually subservient to the ruler and were occasionally ignorant persons who could neither read nor write. But a judge was not necessarily an official. Any man learned in the law could be called in as an arbitrator to settle a dispute or to investigate the details of a question of marriage, divorce, or intestate succession. If the official judges were not to be depended on, the people were permitted to refer their doubts and quarrels to the true jurisconsults, the men who like Abu Hanifah sought neither

office nor money. Such men have usually been forthcoming. The self-denying example of the great Arab jurists was not wasted; it turned the study of Muhammadan law into something more than a mere profession for earning a livelihood. There is no more painful contrast in British Malaya than the difference between the native votary of English law—the lawyer *burok*, as he is contemptuously called—who seeks to earn a dishonest fortune by perjury and fraud, and the true student of the law of the Prophet who can hope for no worldly advantage, but who loves the law either for its own sake or for the sake of the Prophet who inspired it or for the sake of its high ideals of truth, of justice, and of unselfish service to one's fellow-men.

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General Editor.

LAW.

PART II.

THE NINETY-NINE LAWS OF PERAK.

EDITED AND TRANSLATED

BY

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GENERAL EDITOR'S PREFACE.

THIS little pamphlet on an old Perak Code is being published to illustrate the working of the *adat tĕmĕnggong* or "autocratic custom" of the ancient river States. The "Ninety-nine Laws" (as this code is called) were not altogether what they profess to be. They had never been enacted by any legislative authority and were always liable to be overridden at the arbitrary will of the king. They were a compromise between the law of the Prophet and the ancient *adat* of the country. In some respects they bear the impress of fraud, whether intentional or otherwise, for they explicitly claim to be the work of Nushirwan and Buzurjmihr, who certainly had nothing whatever to do with their compilation.

Who then drew up these laws?

I have never seen the original text of the code. Of the two copies upon which our text is based, one was given me by the late Mr. D. H. Wise; the other was lent me by Mr. A. Hale.

One of them has the following note:

> These laws were brought to Malaya by Saiyid Hasan. In the days of Sultan Ahmad Tajuddin *(Marhum Tanah Abang)*—his chief minister was Saiyid Abdul Majid. From him (Saiyid Abdul Majid) they came down to To' Tambak, and whenever any member of this family of Saiyids became *Mantĕri* he used these laws, ranking them in importance as second only to the Law of the Prophet.

In this way the code does not claim to be a national code; it is merely a book of reference kept by a private family and used by the members of that family when called upon to advise the Sultan on legal issues. This

book of reference enabled the descendants of Saiyid Abdul Majid and Saiyid Hasan to pose as experts in matters of law and to have a hereditary claim to the office of Adviser or *Mantĕri*. The same version of the code also contains the following note:

> Dato' Saiyid Jafar, of Kuala Teja, allowed this copy of the law to be made for Mr. Leech, District Magistrate, Kinta.

The editing presents no difficulty. The two versions (they are almost identical) have been collated by Mr. Rigby to produce a text that may be taken as authoritative so far as these "Ninety-nine Laws" go. But who were Saiyid Jafar, Saiyid Abdul Majid, Saiyid Hasan and To' Tambak? And why do they refer to Nushirwan and Buzurjmihr?

Saiyid Jafar of Pulau Teja was a person of considerable importance in Perak during the closing years of the nineteenth century. A few months before his death he was given the title of *Orang Kaya Bĕsar*,[1] the highest local dignity short of royalty. He had therefore the right to speak as an accredited representative of the great Saiyid family that had the custody of these laws.

We now pass to the history of that family.

Saiyid Abubakar, the first great *Mantĕri*, lived in the reign of Sultan Iskandar Dzu' l-karnain. We know only four things about this Saiyid. He was a son of To' Tambak; he had a brother, Saiyid Hasan, who married the Sultan's sister; he was a *Mantĕri*; and he acted as Bendahara. From these four facts we can infer a good deal. Sultan Iskandar Dzu' l-karnain, better known as *Marhum Kahar* came to the throne in 1765. He was a strong-willed ruler and took away the great title of Bendahara from the descendants of Megat Terawis.

[1] I overlooked this in my "Notes on Perak History."—*History* I and II, p. 78.

He must have been very friendly to Saiyid Abubakar whom he made *Mantĕri* and acting Bendahara, and whose brother married his sister. We can easily imagine the position of affairs at the Sultan's court. The Saiyid was a religious aristocrat; the Bendahara represented the old native nobility. The Sultan favoured the former; the chiefs probably favoured the latter. By making the Saiyid his advising minister *(Mantĕri)* Marhum Kahar struck a blow at the Bendahara, who was ex-officio Prime Minister of Perak. The Saiyid then pressed his advantage and succeeded in ousting his rival and even in crowning the title of *Mantĕri* with the time-honoured dignity of Bendahara, the highest honour in the State. He triumphed for a time, and then the Sultan stepped in and made the position of Bendahara an appanage of his own royal house.

Saiyid Abubakar was succeeded in the title of *Mantĕri*, first by his brother, Saiyid Husain (known as *(To' Mantĕri di-Bota)*, and then by his son, Saiyid Shamsuddin, known as *To' Mantĕri Chĕgar Galah.* His descendants still live at Chegar Galah. The policy of ambition that he initiated was kept up by his relatives, who ultimately succeeded in wresting the title of *Orang Kaya Bĕsar* from an old Malay family that had previously possessed it. This dignity ranks immediately after the Bendaharaship. It was allowed to remain ever afterwards in the family of these Saiyids, but in 1862 the title of *Mantĕri* was taken from them and given to Che' Ngah Ibrahim, Ruler of Larut, on the pretext that one family should not monopolise two great dignities.

Such then is the history of the title of *Mantĕri.* If further evidence were needed to show that the date of

Saiyid Abubakar can hardly go back further than the reign of *Marhum Kahar* it would lie in the pedigrees of the two families, that of Saiyid Abubakar and that of the Megats whom he supplanted:

Saiyid Abubakar (*To' Mantĕri Bĕndahara*)	Mĕgat Abu Kasim (Bendahara; d. at Pulau Tiga)
Saiyid Shamsuddin (*To' Mantĕri Chĕgar Galah*)	Mĕgat Mashhur (*Dato' Sri Maharaja*; d. at Kota Lama)
Saiyid Hitam Bĕsar	Mĕgat Abdullah
Saiyid Muhammad (whose grandson is now living at Chegar Galah)	Mĕgat Pĕndia (who was alive in 1881 and whose descendants are now living at Kota Lama)

The Saiyid Abdul Majid mentioned in the "Ninety-nine Laws" was the grandfather of Saiyid Abubakar.

The full pedigree at this point is as follows:

Saiyid Husain al-Faradz
(who first came to Perak)
|
Saiyid Hasan
|
Saiyid Abubakar
|
Saiyid Mustafa
|
Saiyid Abdul Majid
|
Saiyid Jalaluddin
(*To' Tambak*, of Pulau Pisang)
|
Saiyid Abubakar
(*To' Mantĕri Bĕndahara*)

If we assume the truth of Saiyid Jafar's assertion that Saiyid Abdul Majid was *Mantĕri* to Sultan Ahmad Tajuddin, the assumption may help us to date the Sultan, but it will not explain how Saiyid Hasan could have had

the foresight to anticipate that his descendants would be Legal Advisers to the rulers of Perak. Moreover, as the "Ninety-nine Laws" are coloured by local custom, it is hard to believe that they were brought to Malaya in their present form by Saiyid Husain or Saiyid Hasan. There is a better explanation.

This family of Saiyids was always distinguished for learning and holiness.[1] It numbered among its members *To' Tambak*, of Pulau Pisang, who is reckoned as a saint, and Saiyid Abdullah al-Mashhur (brother of Saiyid Abdul Majid), another saint, whose shrine is at Limau Purut. It is therefore likely enough that these ancient Saiyids were, by family tradition, students of the religious law and that the author of the code only put into written form what had been handed down to him by his ancestors. The "Ninety-nine Laws" are a compromise between religion and *adat*. The author's traditions were on the side of religion; but his long family connection with Perak caused the strict letter of the law introduced by Saiyid Husain to be much modified by the actual practice of the people of the State.

Another point next suggests itself. We can understand the Malay element and the purely Moslem element, but why is the Persian element so strongly marked in this code? Why does the author try to impress his hearers by referring to Nushirwan and Buzurjmihr instead of quoting Abu Hanifa and Shafeï? Here again we have to go into the family history of these Saiyids. They claim descent from Muhammad through his grandson, Husain, and his great-grandson, Zainu'l-

[1] I am inclined to think that the Saiyid Jamalullah, who lived before the family came to Perak (and of whom they are very proud), was also a great Moslem saint.

abedin; they assert that they can go still further back and trace their descent without a break to Adam. I have not seen the full pedigree to Adam—it is mislaid or lost—but there is no difficulty about reconstructing it. The ordinary Malay royal pedigrees (such as those of the Malacca Kings or of the Sultans of Perak) go through Sang Sapurba to Raja Suran, from Raja Suran to Alexander, through the Sasanian Kings of Persia, and from Alexander to Kaiomorz, "son of Adam," through the Kaianian Kings of Persia. All this account is Persian; it was probably brought into the Saiyid family history by the old tradition that a daughter of the last Sasanian king married Husain, the Prophet's grandson, and became the mother of Zainu'l-abedin, from whom these Perak Saiyids claim descent. The political effect of this story was that it made the Persians strong partisans of the family of Ali as against the Ummayad Caliphs of Arabia and Syria. It helped to split the Moslem world into Sunnites and Shiites—and curiously enough this Saiyid family "code" of Sunnite Perak takes the Shiite side in the controversy.

Mr. Rigby refers to the rules about the Hashimites as an "unpractical" detail in the code. So it is, from the point of view of the State of Perak. But the Perak Saiyids were themselves Hashimites, and they lay it down that it is a humiliation for a Hashimite woman to marry any one but a Hashimite. Here again we have the Persian view as against the Arabic view that a Kuraish is the only fitting mate for a Kuraish. The Kuraish is the whole clan of the Prophet; the Hashimites are the descendants of Ali. Moreover this family of Saiyids succeeded in establishing its arrogant claims. Its daughters married into other Perak families; but the

children of these marriages bore the title of *Mir* and took precedence of their fathers. Even the great house of the Sri Adika Raja gave up its ancient and historic title of *Tun* as soon as it could claim the dignity of *Mir* through a marriage with the daughter of one of these Saiyids.

The character of the "Ninety-nine Laws" is therefore intimately associated with the history of this great Perak family. I am not prepared to suggest that the Saiyids were of Shiite origin, but I feel sure that they got their family history from Shiite sources. They played a great part in the little Perak world. They overthrew the old Bendahara, the greatest of the ancient Perak Chiefs; they usurped the position of the *Orang Kaya Bĕsar;* they virtually absorbed the house of the Sri Adika Raja; and they raised their own special title of *Mantĕri* to the highest grade in the State. So much of their history we know. We also know that they held the six golden keys of the State Treasury, that they were Legal Advisers and that they laid down in these "Ninety-nine Laws" what they thought the laws should be. The influence of such a family must have been even greater than its power, and the Persian tinge that it gave to all Malay tradition and law makes it unnecessary for us to build upon references to Buzurjmihr and Nushirwan any far-fetched theories about Persian expeditions to Malaya.

I am very much indebted to Mr. Winstedt for assistance in revising the translation and text for the press.

R. J. W.

EDITOR'S NOTE.

My best thanks are due to M. Hanif, who has read the MSS. with me and elucidated many difficulties.

I am also greatly beholden to Mr. C. W. Harrison, who has, with me, revised the whole and made many helpful corrections and suggestions. Without his support this pamphlet might never have seen the light of day.

I am fully aware that greater perfection might be attained, and errors and omissions are doubtless frequent, so that criticisms of value will be gratefully acknowledged and, if possible, embodied in some later edition.

The translation is made from a MS. which I collated with another and does not purport to be a word-for-word translation of the MS. printed. To translate strictly any particular MS. as it stands would be to commit oneself to the vagaries of some particular copyist, and there is nothing whatever to be gained by differentiating between the values of MSS. or discussing readings on the principle of *difficilior lectio potior*. Malay is not the best vehicle for the expression of legal, moral or philosophical conceptions. I therefore decided that to devote myself to elucidating corrupt Malay phrases was labour merely lost. This translation attempts to be a reasonable rendering into English of so much of the available MSS. as is intelligible, which, after all, is far the larger portion.

J. RIGBY.

INTRODUCTION.

The institutes of the smaller States—as of Selangor, Perak and others—may only require notice as far as they differ from the general codes of the superior States.—RAFFLES.

The laws of Achin are interesting in so far as they may have been generally adopted by the Malays in the Straits of Malacca.—RAFFLES.

For a long time Perak was a mere dependency of Achin, and it may be fairly supposed that some of the conquerors settled in the former country.—MAXWELL.

The Government is despotic. Perak has been ruled during the last three centuries by a race of chiefs, under the title of Sultan, who were connected with the ruling dynasties in Johor and Achin.—"Note on Perak"—NEWBOLD, vol. 2, p. 25.]

A CODE being generally understood to be a complete and systematic body of law, or a complete and systematic statement of some portion of the law, it will be at once apparent that the "Ninety-nine Laws of Perak" cannot be called a code. They are very far from being systematic and complete.

A fact which is of considerable importance in considering the general nature of this "code" is that there are a number of similar "codes" spreading wide through the Archipelago. To mention a few, there are: (1) the *Suria Alem*, which seems to me to be one of the most ancient and to contain the strongest evidence of Hindu origin. A modern version of this code is to be found translated in Raffles' "History of Java"; (2) the Malacca Code, translated by Newbold in his "British Settlements in the Straits of Malacca"; (3) the Johor Code, translated in the "Journal of the Indian Archipelago"; (4) the Undang-Undang of Moko-Moko, in "Malay Miscellanies"; (5) the Maritime Code, in the

"Journal of the Straits Branch of the Royal Asiatic Society," translated by Sir S. Raffles. And again a code translated by Saleeby in "Studies in Moro History." Crawfurd mentions the book of the Laws of Goa as forming one of the principal articles of the Macassar regalia.

W. E. Maxwell says, in J. S. A. S., 1890, "Two codes of laws are known to the Perak Malays, though copies of them are extremely scarce among them. The *Undang-Undang Kĕrajaan*, or Law of the Monarchy (also called *Undang-Undang Dĕlapan*, because they were the laws administered by the *Orang Bĕsar Dĕlapan*, or the Eight Constitutional Chiefs); and the *Undang-Undang-Duablas*."

The former collection professes to be the Laws of Perak, Pahang and Johor, and contains many provisions identical with those of the Malacca Code. It appears, then, that these codes extend over a very considerable area from Perak to the Philippines.

The question as to whether these laws were ever enforced strictly is not worth debating. It is sufficient to say that their mere existence proves that they reflect so much of the life of a Malay people as had ever been reduced into legal shape.

The following passages will give the reader a good picture of Malay law-makers at work:

The term *luwaran*, which the Mindanao Moros apply to their code of law, means "selection" or "selected." The laws that are embodied in the *luwaran* are selections from old Arabic law, and were translated and compiled for the guidance and information of the Mindanao Datus. The chief authority quoted is the *Minhāju-l-Ārifeen*. In making the *luwaran*, the Mindanao judges selected such laws as in their judgment suited the conditions and requirements of order in Mindanao. They used the Arabic text as a basis, but

constructed their articles in a concrete form, embodying genuine examples and incidents of common occurrence in Mindanao. In some places they modified the sense of the Arabic, so much as to make it agree with the prevailing customs of their country. In a few instances.....they made new articles which conform to the national customs and common practices.

It is very clear, then, that these codes are not indigenous. Turning from the grand legal systems of the Hindus and Muhammadans the reader will be struck by the poverty of these codes. There is no attempt whatever at system, and system is the very life of jurisprudence.

The extent to which these codes are based on Muhammadan law is sufficiently clear from the passage quoted from Saleeby. But the idea of a code is not Muhammadan. The Muhammadan system is based wholly on the Koran. The Koran and its commentaries contain the whole law; a lawyer in a purely Muhammadan country who produced a code would probably be regarded as an infidel and a dangerous revolutionary.

For an explanation of the beginnings of these codes we must probably look for Hindu influence. The following passage from Friedrich's "Island of Bali" will show how the problem of the origin of Malay codes is to be approached.

Balinese Law Books.—These are written in prose. The accounts of them differ from each other. Raja Kasiman names them:

1, Agama; 2, Adigama; 3, Devagama; 4, Sarasamuschaya; 5, Dustakalabaya (the fear of the malignant Kala), a law book in which in particular the faults committed by children are punished; 6, Swara Jambu—i.e., the command, the law of India; 7, Devadanda,—it comes in use when Wishnu appears incarnated upon earth; 8, Yajnasadma.

The principal law book from India ("Manawa Dharma Sastra") is wanting, according to all enquiries for it which I made among several

priests and persons of rank. They, however, are aware that all their laws have been derived from Prabu Manu, who, in different ages, under different names, holds the Government of the world. I found it mentioned only in the Sivasasana, the law book of the Brahmans, under the name "Dharma Sastra Kutara Manavadi," or, the law books, that of Kutara Manawa and the others. Kutara appears to me to be the same as Uttama—viz., the name of the third in the line of Manus. Possibly the original Balinese law book has been derived from another Indian one, although the contents are upon the whole the same as that of Swayambhuwa, the first Manu. This Dharmasastra Kutara Manawa is either now in Bali and kept secret, or is one of the works which existed in Java but were lost and not brought to Bali.

There further exists in Bali a law book called Svara, issuing from the Deva Agung, and in force for all princes and persons of rank. It cannot as yet be ascertained whether it is the same work as the Svarajambu, but it seems to be a different one, since the addition of Jambu in the latter points to its Indian origin.

It is remarked by Sir W. Jones that among the laws of the Sumatrans two positive rules concerning sureties and interest appear to be taken word-for-word from the Indian legislators.[1]

The Perak Code is not the work of an Arab scholar or lawyer; it is written in homely Malay and was probably pieced together by a Dato' or Saiyid who relied on the Malacca code, or Muhammadan law as taught orally and modified by custom, and in places on the genuine *adat* of the country. That it reflected local practices (at all events at some period of its existence) can be seen from the use of the phrase *yang di-adatkan* and the provisions as to *pawang* and *bidan*. Slavery was in full swing at the time. On the other hand, its unpractical nature can be seen from the mention of camels and lions, which of course are not found in Malay countries, and its rules as to the Hashimites. The most profitable way of reading these laws is to compare them closely with genuine *adat*.

[1] As. Res. vol. III. p. 9.

A point of interest in connection with the Ninety-nine Laws is the ascription of them to Nushirwan. Nushirwan or Khosru of Persia was an infidel, a Majusi; he was a contemporary of Justinian, succeeding to the throne of Persia in 531 A.D. We have, then, the remarkable fact that a Muhammadan author derives what purports to be Muhammadan law from a fire-worshipper. Furthermore, the Persians are the great schismatics of the Muhammadan world. "The clergy laugh inwardly at their own functions, the educated believe nothing at all or hold secretly to a Sufi pantheism. The Sunnite takes his *sortes biblicæ* from the Koran, the Shiite uses a copy of the songs of Hafiz. Ali the national saint is more popular than Muhamad," says Professor Müller. We have a tempting explanation (of this Persian origin) ready to hand, "Raja Chulan, King of Ecbatana in the Persian mountains, came down with an army of Klings and conquered the King of Bruas. Then he went on and attacked the King of Johor, and, giving up the idea of conquering China, he descended into the sea and married a mermaid, and had three sons who became great Kings of Sumatra."[1] It happens oddly enough that Bruas (a district roughly between Larut, the Dindings and the Perak river) was the first seat of government of the Sultanate of Perak. Is it possible that the King of Ecbatana brought the laws of Nushirwan to Perak? Hardly. We must accept Wilkinson's explanation that the above story is mythical. But even if these laws came from Persia they must, in transit, have sadly degenerated. They are not "the law of the Medes and Persians which altereth not." If anyone supposes that we have here any Persian law let

[1] "*Malay Literature*," I.

him examine the following extract from the Zend Avesta:

"O Maker of the material world, thou Holy One! How many in number are thy contracts, O Ahura Mazda?"

Ahura Mazda answered:

"They are six in number, O Holy Zarathustra. The first is the word-contract; the second is the hand-contract; the third is the contract to the amount of a sheep; the fourth is the contract to the amount of an ox; the fifth is the contract to the amount of a man; the sixth is the contract to the amount of a field, a field in good land, a fruitful one, in good bearing. The word-contract is fulfilled by words of mouth. It is cancelled by the hand-contract; he shall give as damages the amount of the hand-contract. The hand-contract is cancelled by the sheep-contract; he shall give as damages the amount of the sheep-contract. The sheep-contract is cancelled by the ox-contract; he shall give as damages the amount of the ox-contract. The ox-contract is cancelled by the man-contract; he shall give as damages the amount of the man-contract. The man-contract is cancelled by the field-contract; he shall give as damages the amount of the field-contract."

"O Maker of the material world, thou Holy One! If a man break the word-contract, how many are involved in his sin?"

Ahura Mazda answered:

"His sin makes his Nabanazdistas answerable for three hundred years."

"O Maker of the material world, thou Holy One! If a man break the hand-contract, how many are involved in his sin?"

Ahura Mazda answered:

"His sin makes his Nabanazdistas answerable for six hundred years."

"O Maker of the material world, thou Holy One! If a man break the sheep-contract, how many are involved in his sin?"

Ahura Mazda answered:

"His sin makes his Nabanazdistas answerable for seven hundred years."

"O Maker of the material world, thou Holy One! If a man break the ox-contract, how many are involved in his sin?"

Ahura Mazda answered:

"His sin makes his Nabanazdistas answerable for eight hundred years."

It is worth noting that this Persian law is stated in this form of question and answer. So are the Ninety-nine Laws of Perak. None of the other codes are so stated.

The explanation of allusions to Persia is without doubt that given by Dr. Hurgronje.

> It (the *Qanoon e Islam*) has especial interest for us because the work of this writer relates to a non-Shiite people, the inhabitants of the coast lands of the southern part of British India, whence the creed of Islam would appear to have made its first advances towards the Eastern Archipelago.
>
> The Muhammadans of the Deccan, whose manners are portrayed in this work, are Shafiites just like those of the Malay Archipelago, but their national ideas and customs have arisen to a great extent under strong Shiite (i.e., Persian) influences.

The intellectual ascendancy of the Persians in the zenith of Arab greatness must also be remembered.

> Simultaneously with the accession of the Abbasids, Persian influence began to preponderate. The Persian Khalid bin Barmak was entrusted with the administration of the finances. The office of Prime Minister was of Persian origin. The word *diwan* applied to all Government offices in Persian. The registers of the *diwan* were kept by Greeks, Copts and Persians, the Arabs being too illiterate. Legal dissertations load the shelves of every Arab bookcase, but the authors themselves were mostly of extra-Arab origin, and often reflect the Persian, Turkoman, and even the Byzantine, rather than the genuine Arab mind.[1]

To sum up then, we have here a strange mixture of influences. Effects of Persian predominance in things of the intellect acting at a vast distance through the medium of Indian Muhammadans of the Deccan. In the dim background is the great legal system of the Brahmins; most prominent is the living and ever-increasing force of the religion of the Prophet. By an

[1] "Encyclopædia Britannica."

analysis into these elements, not forgetting the constant presence of fragments of the ancient customs of the people, these "Ninety-nine Laws of Perak" will be made intelligible. I may fitly end with the following quotation from Dr. Hurgronje:

One might even assert that where codification of the customary law has been purposely resorted to (as in the Undang-Undang of certain Malay States) this embodiment in writing is a token that the institutions in question are beginning to fall into decay. (The case is of course somewhat different with regard to certain codes dealing with the decrees of sovereigns in regard to a limited number of subjects, such as the *Hukum Kanun* of Malacca, and others. These are expressive not of decay, but of a temporary desire for order and reform. The real living *adats* are therein for the most part silently taken for granted and not committed to writing). Collections of documents of this sort offer to the conscientious enquirer a string of conundrums impossible of solution unless he be thoroughly conversant with the daily life of native society, of the traditions of which such legal maxims form but a small part. We should be wandering altogether off the right track in seeking for the laws and institutions of such countries as Acheh in lawbooks of Arabic origin. Such works have only a limited influence on the life of the people. Their chiefs would be very slow to admit that any of their institutions was in conflict with Islam—and indeed are, as a rule, quite ignorant as to whether such is the case or not, being neither jurists nor theologians. They are all trained up in the doctrine that *adat* and *hukum* should take their places side by side in a good Muhammadan country. A very great portion of their lives is governed by *adat*, and only a small part by *hukum*. These *adats* are nowhere to be found set down in black and white. The non-Muhammadan institutions of the Achehnese are really indigenous.

J. R.

TRANSLATION.

MALAY INTRODUCTION.

THIS is the explanation of the books which have been given to the world by Almighty God. They are one hundred and forty and four in number: one hundred were digested into forty and four, these again into four, and those four books were summed up in a single volume.

Also there was delivered to us a Law in seven parts to order the affairs of the servants of the Most High God in this world. One part was delivered to the Prophet Adam; a second to the Prophet David; a third to the Prophet Solomon; a fourth to the Prophet Moses; a fifth to the Prophet Jesus; a sixth to the Prophet Abraham; a seventh to the Prophet Muhammad. The Prophet Muhammad then bequeathed to his four companions the Law in four divisions. Abubakar received the Law of Equity, the Caliph Omar received the Law of Unbending Severity, the Caliph Osman received the Law which is a compromise between Equity and Severity: to the Caliph Ali was delivered the Law of Charity. Thus was legislation provided for all the servants of God of the generation of Adam. Wherever there was a cause to be decided among the servants of the Lord in this world and the guilt or innocence of the parties to be established, such cause had to be tried in accordance with the Law of Equity if no injustice would result. Similarly, the Law of Unbending Severity would be applied if justice would admit it. If the nature of the offence required it, the Law administered would be a compromise between Equity and Severity. Lastly, if it seemed fit, the Law of Charity would be applied.

Subsequently laws were delivered to a country named Medayan, ruled over by Nushirwan the Just, Lord of East and West, the name of whose chief minister was Khoja Bardza Amir Hakim.

In all cases where litigation arose this prince would call his chief minister and apply to the case the law as stated by him. Nushirwan was overlord of seven territories: Medayan, Damsek, Zabin Seradin, Sabi, Turan, Udaya, Satin Dulin.[1]

These laws were brought to the Far East by Saiyid Hasan at a time when Ahmad Tajudin[2] was Sultan and Tuan Saiyid Abdul Majid was his chief minister. Wherever a Saiyid was minister these laws were adopted, so that there came to be a dual system in use, the Law of God and the Law of the Constitutions (Edicts).

1. These are the rules for Judicial Proceedings: Said Nushirwan the Just to his Minister, "What is the law to be followed when complainants come daily and accuse a man of thefts?" The Minister made answer, "Your Majesty, if it is a first offence the case may be compounded and restitution ordered, a second offence would involve loss of a finger, and a third expulsion from the mukim."[3]

2. Said Nushirwan the King, "If one man has wounded another, what is the law applicable?" The Minister made answer, "If the wound is situated above

[1] Medayan is Ctesiphon, Damsek is Damascus, Sabi is Sheba and Turan is Turkestan. "Satin Dulin" is probably Kastan Dzurian, the traditional ancient name of Perak.—R. J. W.

[2] Vide p. 41, *Malay Literature*, II, of this series.

[3] A thief is, according to Achehnese law, punishable with death, even if not caught red-handed. They consider the punishment an act of private vengeance. According to Muhammadan law the thief should be deprived of his right hand; for a second offence of his left foot. But theft, as defined by that law, is exceedingly difficult to prove.

the navel, *diat* or blood money of twenty-five dollars must be paid; if the wound is situated below the navel, five dollars must be paid; if the wound has caused slight bleeding only, to clear his conscience the offender should offer a piece of white cloth."[1]

3. Said Nushirwan the King, "What is the law relating to manslaughter?" The Minister made answer, "Strictly speaking, the slayer must answer with his life; but in the case of true believers, if the murderer appears before the court, the death penalty will not be inflicted. But a fine of five *tahil* of gold must be paid, and a funeral feast provided, either a buffalo, a white goat or a white camel, as the price of his liberty."

4. Said Nushirwan the King, "What is the law where an infidel slays a believer?" The Minister made answer, "The infidel shall not be put to death; because, if he is put to death he can never be converted to Islam.[2] The relatives of the deceased can only require a money payment to be paid by the murderer's kin, whatever amount they think fit. If an infidel is slain by a believer, the latter shall be put to death; but if he can compensate the kindred of the deceased (and the law stipulates for a payment of ten *tahil* of gold) he shall be let go."

5. "What is the law applicable in cases where the paternity of a woman's child is doubtful? We may consider the case under three headings: firstly, where the woman states that a particular man is the father of her child (the Lord establishes truth, and His decrees cannot be changed, nor does He oppress His people); the second case is where the woman is not pregnant, but declares that some man has outraged her." On this point the

[1] *Gajahilan*, a roll of calico, is paid as a fine under the Mindanao Moro Code.

[2] The meaning of this is obscure and the translation conjectural.

Minister replied, "If she can produce as a proof some piece of the trousers he was wearing, the man suspected will have no defence; again, if no such proof is produced by her, but if the woman was surprised in the act of coition by her relatives, the man will have no defence. In such cases let the judge, after careful consideration, make an order for the parties to get married. And the reason of this is, that a multiplicity of illegitimate Moslems is a reproach to a country and to its rulers. Again, if a woman is pregnant, the father of the child must marry her. If a woman makes a complaint but cannot produce any of the three kinds of evidence mentioned, her case must be dismissed, as it does not fall within the provisions of the law." [1]

6. "What is the law relative to seduction?" The Minister replied; "The offender should be expelled from the mukim; but if not, he should at least be fined a *paha* and three *tahil* of gold. The woman should be pilloried at the door of the mosque and her head should be shaved; but if she can pay a fine she may be allowed to go free."

7. "What is the law where a woman wishes to be divorced from her husband?" The Minister replied, "The law is, if she establishes a complaint at the court on three occasions, she can have a divorce, but she must redeem herself by returning an amount equivalent to her dowry, and she must pay to the court a *paha* of gold by way of a court fee. If the husband wants a divorce he must pay within three months two *paha* of gold (for her maintenance) and pay the whole of the dowry in

[1] This passage is obscure, because the text has become confused. But the meaning of it is that there are three forms of proof of illicit intercourse: (1) pregnancy; (2) the testimony of eye-witnesses; (3) the woman's testimony supported by her possession of portions of the man's clothing.—R. J. W.

cash (if not already paid). The universal rule is that the dowry should not exceed a *tahil* and a *paha*. In making payment of the dowry, only if it is impossible to pay cash can other things be received instead, and this because of the passionate nature of man."

8. "What is the law when men use loose and violent language to one another, lightly taking the name of God and of a man's father and mother?" The Minister made answer, "It is an offence against the law and the offender must pay a fine of one *paha* of gold."

9. Said Nushirwan the Just, "What is the law as to the amount of a woman's dowry?" The Minister made answer, "The fixed amount for all ordinary persons is a *tahil* and a *paha* at the most. The payment in the case of rajas is ten *paha* of gold: in the case of Hashimites five *tahil* of gold. Rank has to be considered in such cases. It is not permissible for a woman of the Hashimites to wed an ordinary person, but if the ordinary person pay five *paha* of gold in consideration of his low status, then the marriage can take place, but one *tahil* and a *paha* of that gold must be distributed in alms."

10. "What is the law as to the marriage of female slaves?" The Minister made answer, "If a man commit fornication and then observe the proper customary law and make those preparations for marriage which custom enjoins, marriage may take place, 'the usual observances waived.' But if he commits the offence without the preparations custom enjoins and without any offerings, he is said to disobey custom and he may be thrust out with force. If he brings a sufficient amount according to the custom, and wishes to be married, his suit may be refused, but the girl's guardians must pay him the amount of the woman's dowry. If a virgin who has

relatives wishes to marry a man and the relatives are opposed to it, the marriage cannot take place. If she has no relatives she may do as she pleases, but the law is that the elders of the village shall take the place of relatives as guardians. If the woman is a widow she may follow her inclinations, provided they be right."

11. Said Nushirwan the King, "What are the rules and customs regarding rajas and penghulus of states and parishes, as the case may be?" His Minister replied, "A penghulu's first duty to the peasants will be to see that the dead are buried, secondly he must search for the missing, thirdly he must resolve perplexities, fourthly he must see that justice is done when offences are committed. The peasants owe a twofold duty to their penghulu—namely, to come when he summons them and to go where he orders them to go. Furthermore, when a case is heard, he (the penghulu) should study the demeanour of the parties. If a man is guilty his face will show it, his postures will be uneasy, his shuffling will show the state of his mind, and his guilt will appear in his speech. The guilty must then be pronounced guilty, the innocent must be declared innocent. This is the law. Distinctions must be maintained between what is trivial and what is serious in the cases before him. And then his decisions in all cases must be strictly upright, and no consideration must be taken from either party in any proceeding."

12. Said Nushirwan the King, "What are the rules applicable to officers in charge of a mukim?" His Minister replied, "The following are entitled to maintenance from the faithful. Firstly, the judge, who has jurisdiction over that division; secondly, the imam; thirdly, the penghulu, who is responsible for the mainten-

ance of the mosque; fourthly, the reader; fifthly, the muezzin (caller to prayer); sixthly, the pawang (medicine man); seventhly, the midwife. The welfare of the community depends on these. If a man, after receiving notice, neglects to attend the Friday prayers, he should be fined half a *paha* of gold. It is the duty of the imam to regulate the calendar, and to control the teaching of religion by giving true rulings on all points that are obscure. The duty of the reader is understood to be to stop all disputings. The caller to prayer, while in the mosque, holds the position of a king. The pawang holds a similar position in the house of the sick patient, in the rice-field, and in the mine. The midwife is a queen in the house where a childbirth is in progress. But all are in subjection to the penghulu."

13. "What is the law in the case of the abandonment of a *kampong* or *dusun*?" His Minister replied, "If the owner of the crops is dead, whoever passes by that place may take and eat the fruits thereof, and he need pay nothing, but only the *bonâ fide* wayfarer may so eat. But if the owner of an orchard is still alive and another person is in possession, they shall take the fruits jointly, the owner of the orchard and the man in possession. In the case of an abandoned *dusun*, if a neighbour has been looking after it he may share the fruits with the owner. But when the owner appears and wishes to take his fruits, he must give notice to the occupant; if he enters without warning his action is illegal, and he may be fined a *paha* of gold. On the death of an owner of a *kampong* or *dusun*, the usufruct goes to his female children, but the property reverts to the raja and is under the charge of the penghulu."

14. "What is the law regarding the keeping of tame animals, buffaloes, goats and other domestic animals?" The Minister replied, "If any one wound such an animal he must pay compensation, half the value of the beast must be paid to the owner. If an unclean beast is kept and it wounds a man, the owner must dispose of it, and he must pay a fine of one *paha*. If a domesticated animal kills a man, the animal is forfeit to the relatives of the deceased and, besides, a fine of a *tahil* and a *paha* must be paid. If an unclean animal kills a man, only a fine of one *paha* of gold has to be paid."

15. "What is the law when a man destroys another man's crops?" The Minister replied, "If they have been abandoned and are useless, and even if their owner has never demanded their price, half their value must be paid, besides a fine of one *paha*. If the crops were of any value, the full price must be paid, and a fine of one *paha*."

16. "What is the law dealing with fugitive slaves?"[1] The Minister replied, "If they succeed in escaping beyond the first rivulet, they may be redeemed from their captor for half a *paha*. If they succeed in reaching the second rivulet, beyond the limits of the mukim, they can be redeemed for two *paha* and a half. If the slave enters a house, unless the owner of the house informs the slave's master, who is in pursuit, the owner of the house shall be mulcted a *paha* for the offence. If the fugitive is a slave by birth, he may be seized by force, if he was born free and anyone tender his value, the offer must be accepted."

[1] The rules of the "Perak Code of Slavery Law" are very much more elaborate. The penalty for harbouring is, if a male, to have his ears filipped with *rotan sĕga*. If a female, her head is shaved and she is beaten with *rotan manau*.

17. "What is the law of debt?" The Minister replied, "Consider carefully whether the contract was made under pressure of want, if so it is void. If a man contemplates incurring pecuniary liability, the judge has to consider if due diligence was used, what were his means of support, and what was his object in contracting this liability. Contracts are void where the consideration is immoral."[1]

18. "What is the law applicable to the case of a man who comes and complains that he is in financial difficulties or that his accounts are in a state of confusion?"[2] The Minister replied, "Firstly, pecuniary assistance should be given him, or, failing that, good advice. If help cannot be given in his case, or with his accounts, give him a recommendation, or if not that, then give him actual physical assistance. To a man in such straits, help of at least one of these kinds must be given."

19. "What are the rules relating to lodgers?" The Minister replied, "Your Majesty, the lodger must inform the owner of the house every time he enters or leaves the house; if this is done, the owner of the house can be charged in the event of his murder or of the theft of

[1] "A contract to do an act illegal because prohibited by law is void. So a sale of pork or wine is void according to Muhammadan law."—Holland, Jurisp. p. 261.

The law here is exceedingly lenient. Muhammadan law is very favourable to the debtor. If, says the Koran, there be any debtor under a difficulty of paying his debt, let his creditor wait till it be easy for him to do it. But if ye remit as alms it would be better for you if ye knew it. So we may take it this section is Arabic law. As for the Perak custom, see Cap. 69 of the Perak slavery law—viz: "Cap. 69. Debt is of two kinds, either repayable on a particular date agreed upon or repayable on demand. In the case of a debt of the former kind, if the period within which payment has to be made is exceeded, even by a single day, the debtor may be sent to work in the tin mines of the creditor, and if he runs away he forfeits his status of a freeman and becomes the slave of the tin miner. If the debt is payable on demand and the debtor absconds, he loses his status and becomes a slave."

[2] This section gives the mild law of Arabia.

his goods. If, owing to the lodger going in and out of the house, the house is burgled, the lodger is responsible, and must bear half the owner's loss. If the lodger was negligent, he must bear all the loss and be fined one *tahil* and one *paha*."

20. "Take the case of two men travelling together, they arrive at some place where they wish to spend the night, and then one of them loses something, what would be the law applicable?" The Minister replied, "If the loss occurred during the night, the loss should fall equally on both; if the loss occurred in the daytime, the owner must bear the whole loss himself."

21. "In the case of litigation between neighbours, what are the rules applicable?" The Minister replied, "If complaints are brought, such as family disputes, or mere verbal wrangling, no fines should be imposed; the parties should be warned, if they persist, they may be dealt with strictly according to the custom."

22. "What are the rules to be followed when complaints are brought before the chiefs?" The Minister made answer, "Be just in judgment, for on this depends much good or evil, and what is thought good may be found to be the reverse. First, the judge must investigate, then make diligent search, then the accused should be confronted with his former misdeeds, then the effects of anger, cajolery and deception should be tried. Then his better feelings should be appealed to. And lastly he should be severely cross-examined. Lastly, we must remember the omnipresence of the Almighty and our office, and then only look our enemy in the face. For all men hold a judge as their enemy."

23. Said Nushirwan, "What is the law dealing with manslaughter, where both parties are Muhammadans?"

His Minister replied, "Your Majesty, if a Muhammadan slays his co-religionist, he shall not be put to death; if he is, both slayer and victim would be lost, dying the death of unbelievers. The judgment of the court should be a fine to be paid as compensation, four *tahil* and two *paha*, or one *tahil* and one *paha*, but at least two *dĕrham*, and he must dispense in charity one *paha*, so that he may pay the fine and be absolved."

24. Said Nushirwan, "What are the rules regulating the appearance of people before a raja or chief?" His Minister replied, "When they sit in the presence, people must bow the head, they should not allow their eyes to wander, they must not look in his face, the voice must not be raised, each man must regulate his behaviour as required by custom."

25. "What are the rules governing the conduct of a judge sitting for the trial of cases?" The Minister replied, "A judge must ever be mindful of the Almighty and His Prophet; secondly and thirdly, consider the respective positions of himself and his litigants; fourthly, he must be on guard against charms and persuasions. After this he should address himself to the enquiry considering the whole of the evidence. When this has been done [it will be found that] guilt will be apparent in the face of a guilty man, in his speech, his postures and his gait." The King then inquired if this was the whole law, to which his Minister answered, "The judge must conduct the enquiry according to his intelligence."

26. "What is the law where a person receive goods for delivery and intentionally fails to deliver them?" The Minister replied, "The goods must be replaced and a fine of twenty *dinar* paid; but if the failure to effect delivery was due to *force majeure* and the carrier replaces

half the goods if the goods were eatables, or the whole amount if they were not eatables, he will incur no criminal liability."

27. "What is the law regarding medical fees for attendance on sick persons?" The Minister replied, "If through the agency of any treatment a lunatic recovers his sanity, the fee shall be one *paha;* in case of rodent ulcer the fee will be half a *paha;* for other diseases one *paha,* as the cost of the *materia medica* hunted after by the pawang."

28. "What is the law regulating the fee in cases of demoniacal possession?" The Minister replied, "If the person possessed recovers so far as to be able to undergo purification, the fee will be a *paha* and five *dĕrham.* If the devil is utterly cast out and the evil influence removed, one *paha* and fourteen *dĕrham*—that is, one gold *dinar* is the fee."

29. "What is the law regarding the payment of the wizard[1] who looks after the spirits of the village?" The Minister made answer, "The fee for watching over the village is a *paha,* besides which the wizard has a right to any materials left over from the ceremonies. If he has charge over the spirits of a mine, the fee is a *paha* with the materials as before. He is also entitled to receive a suit of clothes, jacket and black head cloth. The wizard's duty where he finds matters have gone wrong is to set them right if he can find the proper spell. When he succeeds his fee is, in the case of a padi field or other matter, a piece of white cloth and the materials. Once in three months the wizard will vivify the padi, and each person will give him two *dĕrham* as his fee."

[1] For an account of a mining wizard see Skeat's "Malay Magic," p. 250 and following.

30. "What is the law applicable to the case of a woman seeking a divorce from her husband, she being a virgin, her husband not having deflowered her on account of her unwillingness?" The Minister replied, "She can have a divorce, but she forfeits her dowry and pays for the divorce a *tahil* and a *paha* of gold."

31. "What is the law relating to the division of property after divorce?" The Minister replied, "If the divorce is at the instance of the husband and there is no blame attached to the woman, he must provide her with maintenance for three months, and the personal property will be divided. Weapons and instruments of iron go to the husband, vessels of brass and household utensils go to the wife. To the wife also belong the house or plantation, to the husband debts and dues. If a divorce is sought owing to the misbehaviour of the woman—that is, on account of either adultery or neglect of service at bed and board, or refusal to do works of charity and to pray to the Almighty—she forfeits her settlements only, and the law is that the husband must pay a *paha*. If a woman seeks a divorce, if she thrice makes out a case of misconduct on the husband's part, she can certainly obtain a divorce; but she must redeem herself by returning the settlements, and the movable property goes to the husband. The husband suffers no disadvantage. If the husband wishes to remarry the same woman[1] he may do so if the woman is agreeable, but he must pay her settlements as before."

32. "What are the rules when one person sues another? What does justice require?" The Minister made answer, "In the laws which have come down to us from your sire Kubad, the courts could take

[1] Without the medium of a *muhallil*.

no cognizance of cases between children and their parents; otherwise it would be regarded as a piece of tyranny on the part of the raja or chief. The case must be amicably settled. Of cases between brothers and sisters, the judge may take cognizance as an arbitrator only. Parents and children, brothers and sisters, share the family fortune and the family repute; if one suffers, all suffer, so they should not sue one another in court. If the raja take action against such it would be a violation of the law of Muhammad."

33. "What is the law relating to the division of the estate of a deceased person?" The Minister made answer, "House and garden, crockery, kitchen-utensils and bedding, are taken by the female children. Implements of iron or weapons, padi lands or mines, go to the sons. The debts and assets of the estate are divided as follows: a son takes double a daughter's share. The remaining property is equally divided, for all children are on an equality, all have the same origin. And it must be mentioned that if there are unmarried children their shares are increased by ten per cent."

34. Said Nushirwan, "What is the law regarding the case of a person of property dying childless?" His Minister made answer, "At the time of the burial the effects are given to the authorities of the mukim where he or she died. Any part of the estate that may be a marriage settlement should be given for charitable purposes to the kadzi.[1] If there still remains anything over, a feast of one hundred days should be given for the benefit of the dead man, and if there is any over, then only do his relations get it or (if no raja) the people of the mukim, in such proportions as may seem right."

[1] This passage is obscure.

35. "What is the law if a young person dies unmarried leaving a considerable amount of property, and if the father and mother, and brothers and sisters of the deceased are still alive?" The Minister made answer, "The father and mother shall not inherit,[1] the property goes to the brothers and sisters. The brothers and sisters must pay all liabilities. The parents are allowed to take the clothing of the deceased. If the deceased left no parents or kinsfolk, the property will revert to the kadzi or to the Ruler of the State."

36. "What is the law of slavery?" The Minister made answer, "If the slave is an infidel, of a people having no scripture,[2] and not a debt-slave, he may be sold for a fair price.[3] If he is a Muhammadan, the child of debt-slave parents, his price will be a *tahil* and a *paha*."

37. "What is the law applicable when a woman becomes pregnant and the child's paternity is uncertain?" The Minister made answer, "If it occurs in a Muhammadan country, her seducer must marry her, for nothing

[1] I do not think that this means that the parents actually get nothing. Under Moslem law they get a definite percentage, but the estate proper goes to the "residuaries," not to the so-called "sharers" whose shares are limited. Brothers and sisters are "residuaries," parents are "sharers."—R. J. W.

[2] *Kitabi:* all who believe in a heavenly or revealed religion and have a *Kitab* or Scripture such as the Pentateuch or the Psalms of David are *Kitabis* (Scripturalists) and marriage with their women or eating meat slaughtered by them is lawful.

[3] This institution of debt bondage is wholly opposed to Muhammadan law, which is most lenient to debtors.

"The institution of slavery as it exists among the Malays is a national custom which they have in common with other Indo-Chinese races, and it is a mistake to suppose that it is the offspring of Muhammadan law and religion. Muhammadan law has, however, largely influenced Malay custom respecting slavery, and Arabic terminology is noticeable in many of the details incidental to the system. So far from being identical with the slavery lawful among Muslems in Egypt, Arabia, etc., the Malay institution is in some respects completely at variance with it." —MAXW., J. S. A. S.

"A debt bondsman, though often called *hamba*, is more correctly termed *kawan* (companion). He is a free man (*merdheka*) as opposed to a slave (*abdi*), though from his being obliged to serve his creditor in all kinds of menial employment the two conditions are not always readily distinguishable."—MAXW., *ibid.*

tends more to the destruction of a country than the multiplication of bastards. If the woman cannot manage to find the father of her child, the raja administering the country should help her to do so. If the raja of the country is an infidel, the woman is not obliged to marry."

38. "What is the law applicable to the case of a woman becoming pregnant before marriage, and then after marriage being divorced?" The Minister made answer, "The woman can be divorced, but after the birth of her child the father must support it for forty-four days. If the child dies, the father need support the mother for seven days only. He must also pay the fees of the midwife and the other expenses."

39. "What is the law as to the maintenance of a divorced woman?" The Minister replied, "For her maintenance about a *paha* will suffice, but if there are young children, or if the parties live in a large village, the amount will be two *paha* and a half; if the place where the woman lives is in the jungle, or if she can earn her own livelihood, like the people of the country, she is not entitled to maintenance, she must support herself."

40. "Are there any rules applying to particular persons dwelling in the village?" The Minister made answer, "Your Majesty, if there is a hag in the village, not belonging to the tribe, she must not be received or allowed to remain there, in case she may be keeping an evil spirit to cause disorders and quarrels in the village. So too any wrong-doer is certain to influence the people, (for how can the elders of the village watch him) and he should be similarly ejected."

41. "What is the law applicable to the case of a woman wishing for a divorce, there being no fault on

the part of her husband?" The Minister made answer, "She shall not have a divorce; let her be thrown into the jungle for seven days by herself. If she returns she is carried round the mosque, so that it may be known to others what she has done, and that she may serve as a warning to others."

42. "What is the law applicable to the case of a man who keeps beasts which destroy crops?" The Minister made answer, "The crops must be replaced or their value paid. If any man is wounded by these beasts they may be killed, and their owner fined a *paha*. But this only if the crops are properly cared for. If the creatures are only small ones, no fine can be inflicted; if they are destructive they can be thrown into the water."

43. "What is the law applicable to the case of a man clearing and irrigating a piece of land?" The Minister made answer, "A person arriving later will not be allowed to take land higher up, but he may take land lower down, provided that he does not interfere with the work of the first arrival. The newcomer must compensate the first settler for half his loss."[1]

44. "What is the law applicable to the case of a man holding high padi land whose crops are eaten by animals kept by another?" The Minister made answer, "If the clearing is strongly fenced, so that shaking does not break down or move the fence, buffaloes and other animals that get in may be killed. If the animals first make a hole in the fence, the owner of the beasts can recover them if he is willing to pay the full

[1] The Malay law of real property is not complicated. It is not surprising, therefore, that we find only two sections, 13 and 43, dealing with real property. Anyone interested in the subject should consult W. E. Maxwell's article in the J. R. A. S. and the modern land law of the Federated Malay States, which crystallises Malay practice and carries it to its logical end—i.e., that if a holder abandons land, it reverts to the Ruler of the State.

damage done, otherwise he shall lose them. If they are unclean beasts, such as lions, the owner shall be liable [for all damage]. If there is no fence, he must pay half, as required by custom. If the beasts enter from the side of a person who has no fencing, and destroy crops within the land which has been strongly fenced, the man who has no fence pays one-third of the damage, the owner of the beasts two-thirds."

45. "What is the law applicable to a person who keeps lions and elephants and other large animals?"[1] The Minister made answer, "If he lets them be at large it must be at a distance of three miles from the village. If they are still in sight, and they damage crops as they pass by, the owner must pay damages and 25 *dĕrham*. If cows or buffaloes graze in the fields in the daytime, no damages need be paid; if at night, damages must be paid."

46. "What would be the law where after a sale of buffaloes or goats they were lost?" The Minister made answer, "If a man buys a buffalo and it is lost the same day, and cannot be found in that place, if the buffalo has not been removed from the parish, half the cost must be returned. If it dies the same day on which it was bought, in the village where the sale took place, half the price must be returned. If the buffalo is stolen the loss falls on the purchaser only. If the purchaser belongs to the village in which the sale took place and if he takes the buffalo outside the limits of the village where the sale took place, whether it dies or is lost he has no cause of action against the seller; but if the loss occurs within the limits of the village, half the price must be returned."

[1] Negri Sembilan custom says "*Siang lĕpas, malam tĕrtambat,*" which enforces fencing on the landowner by day and penning on the cattle owner by night.

47. "What is the law dealing with the rearing of goats?" "If they eat plants which are fenced in, the owner must pay for them. If there was no fence the owner need not pay anything, because it is the nature of such animals to browse within the kampong."

48. "What are the rules applying to the case of a poultry farmer whose birds are killed by some person?" The Minister made answer, "If any person kills the birds when they are under their owner's house, he should be condemned to pay their price and a fine of ten *dinar*. If the birds are killed outside the house, the price only need be paid. If an animal which was created fit for food is improperly slaughtered, the person who does this will be guilty."

49. Said Nushirwan the King, "What are the rules applicable to persons visiting foreign countries?" The Minister made answer, "When passing through a village a man should not allow his nether garments to be tucked up. If he enter a house, and there be no male person present, he may only sit at the threshold with one foot on the steps. If he finds the inhabitants of the country at war with some foreign power, he should be on the side of the inhabitants. If the country is in a state of civil war, he must not interfere on either side. If a man resides in a foreign country, he must observe the following rules: firstly, he must render honour to the rulers of the State; secondly, he must pay due respect to the chiefs; thirdly, to the elders and officials of the mosque. By these means he will escape unfair treatment. The customs of a country should be observed, but one should not go beyond them."

50. "What is the law applicable in the case of illicit intercourse, where the parties are brought before the

penghulu of a mukim?" The Minister made answer, "If both parties admit their guilt, let them be married, and let them pay a fine of one *paha*. If there is no penghulu, and their guilt is clear, the parties may settle things themselves."[1]

51. "What are the rules to be observed when a stranger visits the village, wishing to pass the night there?" The Minister made answer, "The villagers will be blameworthy unless they give him lodging and food sufficient for one night's sojourn."

52. Said Nushirwan the Just, "Well, sir, I compliment you on your learning and perspicacity, and now I must ask for your opinion as to the law on another point; for we are the sole King of this world from east to west, from south to north. What, sir, is the law applicable in the case of an affray, ending in fatal consequences?" The Minister made answer, "Well, your Majesty——" then, after hesitating, he rose and, shaking his head, replied, "there is yet another provision of the law. It has been decreed that the children of Adam should have five *chupak* of blood apiece. If one man slay another, shedding his blood, blood money must be paid, one *tahil* and one *paha*, and a fine must be paid, five *tahil*. And this because blood is spilt from the body of a son of Adam: for the blood is the life and is ever the property of Almighty God." Furthermore the Minister stated, "The use of gold and silver coins, and the reason why they were sent into this world is, firstly, to free all sons of Adam of tender age, who would otherwise have been put to death by their rajas for crime. When the fine is paid, the man shall go

[1] A Penghulu of Rembau in the Negri Sembilan once remarked "*Pakat jalan dalam gĕlap, adat jalan dalam tĕrang.*"

free,[1] and cannot be put to death. Such is the use for which gold is sent to us; gold, the filth of this world.[2] Its other uses are to do good works, and for food and clothing. God gives us gold in plenty to serve us in the hour of calamity. And," continued the Minister, "whatever fault men may have committed, Your Majesty, if they are able to pay the proper fine to the raja, their sins shall be pardoned in this world with the help of this gold. If this were not so, of what use would be gold?"

53. "What is the law regulating the division of property after divorce?" The Minister replied, "If the property was brought from their parents' homes, being acquired before marriage, each party will keep possession of it. Such property is known as separate estate and is not thrown into the property to be divided on divorce. But if the parties have lived three years together and have children, it shall be thrown in."

"If a man marries a woman, has children, acquires property and is subsequently divorced, and if he then marries a new wife, has children and acquires property as before, and after that dies, what will be the law governing the case?" The Minister replied, "Property acquired during the former coverture cannot be inherited by children of a later wife. If he acquires property by a second wife, the children of a former marriage cannot inherit it; they may only take a small article each as a memorial."

54. "What is the law where complaints are received from a woman who wishes for a divorce?" The

[1] A manslayer (*yang bawa darah mati*) or other criminal who is unable to pay the price of blood or other fine (*diyat*) and who surrenders (*hulur*) himself and family to the raja becomes a slave (*abdi*).—MAXW., J. S. A. S.

[2] Or: "Gold that washes away the filthy sins of the world."

Minister made answer, "She can get a divorce if she has failed to receive from her husband either satisfaction for her feelings or nourishment for her body."

55. "What are the rules governing the conduct of wealthy persons?" The Minister made answer, "If the mukim contains many wealthy persons, it may be considered extremely fortunate. These wealthy persons must behave with generosity towards the poorer classes. They must pay proper respect to the rajas and penghulus, give small sums to the devout, and make a feast at least once a year without fail, and they should earn repute in this world by being charitable to the needy."

56. Said Nushirwan the Just, "Now, sir, how is it that if an infidel slays a believer, the infidel cannot be put to death?" The Minister made answer, "If vengeance is taken, it does not profit the murdered believer in this world or the next, for to the child of Islam existence is twofold; first, there is this world, and eternity. But the unbeliever has only one existence. And besides, if vengeance is taken in the event of a believer being slain by an infidel, the infidel and his slayers are all accounted as infidels."

57. Said Nushirwan the Just, "Regarding the rules as to a second marriage, how is it, sir, that a woman marrying for the second time should receive as settlements the same amount that she received on the first occasion?"[1] The Minister replied, "Your Majesty, if a woman of the Hashimites or any Muhammadan woman marries a raja or chief of a country, though she be a widow, she receives the same dowry as when she first married, and no less. If a Hashimite or raja marries

[1] This question is not properly answered. The answer seems to be that the rank of the woman has to be paid for, and that she does not lose her rank by becoming a widow.

an inferior, the woman can get a divorce for five *tahil* of gold. The dowry of a Hashimite woman is five *tahil* of gold. Five *tahil* of gold are equivalent to five hundred ingots (*bidur*)."

58. Said Nushirwan the Just, "What are the rules applying to the officers of the mosque in a mukim?" The Minister made answer, "Your Majesty, a man who is a priest, a reader in the law, or a caller to prayer must firstly be a man of good appearance, with no blemish of body; then he must have a good voice; then he must understand the calendar; next he must be of an industrious disposition; after that he must be polite in his speech with the people; lastly, he must be up betimes of a Friday morning, entering the mosque before the other people. And also he must repair the dilapidations of the mosque."

59. "What are the rules applicable to pawangs?" The Minister made answer, "The pawang must be a man of great prudence, a clever speaker, a careful and industrious man, refusing to speak a lie to any man, not lusting after women. If a man is sick, he must attend immediately. His reward is that he escapes taxation and forced labour."

60. "What are the regulations applying to midwives?"[1] The Minister made answer, "Midwives should be strong-minded, upright in their dealings, not given to scolding. When a woman is in labour they must attend immediately. The fee payable by all sons of Adam is two and a half *dĕrham* and five ingots, a piece of cloth and a bottle of Perak oil. She must nurse her patient for seven days."

[1] The functions of a *bidan* are described by Skeat, p. 332. *See* Gerrard's Vocab. Med. T. *See* also section 12.

61. "What are the rules applying to the case of parents who have a young unmarried daughter?" The Minister made answer, "Your Majesty, having a virgin daughter is like having gold; there are its uses and its drawbacks; it is like having fire in the kampong. When she comes of age, at seventeen, her parents must seek a husband for her. If an inferior person wishes to wed her, she must be informed, and similarly if her proposed husband is in a superior position. If they are both in the same station of life, after a short interval the marriage can take place."

62. "What are the rules applying to the case of parents who have a young unmarried son?" The Minister made answer, "The parents need not provide jacket or cloth, nor need they give him capital if he wishes to start trading. If they wish him to marry, they should seek for a girl of moderate station. They should never praise their son in conversation. The responsibility of the parents consists, firstly, in sending their son to school to read the Koran; secondly, teaching him some knowledge of the world; thirdly, getting him a wife. After this is done their responsibility ceases."

63. "What course should a man follow who is in search of knowledge?" "He must learn [from all]—from men who are liked and from men who are disliked; from men who are religious and from men who are ungodly. In each case he will find a lesson to learn."

64. "What are the rules applicable to persons who have attained to wisdom?" "Firstly, let their wisdom be apparent to all men from afar; secondly, a teacher should not seek his reward in money; thirdly, he should

not do as the proverb has it.....[1]; fourthly, he should reverence learning in his heart; fifthly, let him not boast to others of his pupil's cleverness; sixthly, he should not receive as scholars persons of low origin; seventhly, he must not give instruction to the irreligious; finally, his wisdom must be fruitful of good works."

65. "What are the rules applicable to persons newly wedded?" The Minister made answer, "The husband shall give due respect to his wife's relations. For seven days after the marriage he should not be too much in the house, but should visit different places. When he does come into the house he should refrain from entering the bed. For forty days he must keep his passions within bounds, so that the faith of the newly married couple in God shall not be impaired."

66. "What is the law as to a man's duties to his wife?" The Minister made answer, "Your Majesty, his first duty is that he should provide medicine for her in sickness; secondly, he must provide treatment for her in pregnancy; thirdly, he must provide meat, drink and apparel according to his means; fourthly, she will require a house wherein to dwell; fifthly, his land must be planted to provide her with sustenance. If the lady is displeased for lack of any of these arrangements, her husband cannot quarrel with her. If her wants go beyond these, let her husband pay no attention whatever, and he should pay no heed to her various opinions, entrusting her with no secrets; for a woman is a thorn in one's side (*lit.* a foe in one's blanket). He should entertain no feelings of jealousy, though if there be no jealousy [exhibited] things will not work properly. It

[1] This may refer to the proverb that a teacher's bad example is reproduced to an exaggerated extent in his pupils.

is wrong for another man to use the husband's dish or the husband's bed. Do not trust a man in the company of a woman. A strange man is to a woman as the sun is to the moon; they should be always apart. If a woman misconducts herself with another man, the penalties are these: firstly, divorce; secondly, death; thirdly, expulsion from the country; and fourthly, the woman may be forced to marry her paramour. These four methods of procedure settle the matter in this world."

67. Said Nushirwan the Just, "What is the law where a man seduces the wife of another?" The Minister Bardza Amir Hakim replied, "Your Majesty, if the husband comes upon the guilty pair within the four posts of the house, he may stab them without fear of prosecution, and the woman's head shall be shaved. If the case should come before the raja or chief of the district, the adulterer shall not be put to death. The law is that the woman shall leave her husband's house stripped of everything, and for her debts her seducer shall be liable. Her dowry shall be returned to her husband, and for the wrong she has done him her seducer must pay a *tahil* and a *paha* of gold; to the village also he must pay a fine of a *tahil* and a *paha* of gold. If these fines can be paid, the parties are free and can marry. But if they fail to pay the customary fines the marriage shall not take place and the parties are expelled from the village and fined a *tahil* and a *paha*, and if this is not paid, any articles on their persons may be taken and they will be treated as beasts."

68. "What is the law applicable to the case where a man seduces a girl betrothed to another?" The Minister made answer, "He shall not be put to death, but only beaten. If the offence is brought before a

penghulu they can be married, but a double dowry must be paid, half of it to go to her former lover, and a fine of a *tahil* and a *paha* must be paid. If the girl has received gifts from her suitor they must be returned doubled. If the gifts were eatables or wearing apparel, which she has worn, these things cannot be returned. If the seducer cannot pay according to the custom of the country and the demands of the relations, marriage cannot take place; the offender may be expelled from the country, beaten and plundered, because he has been guilty of outrage, as it is called."

69. "What is the law applicable to the case where a man keeps a dog which bites somebody, drawing blood?" The Minister made answer, "The dog may be killed and the owner must pay for all medicine required, a *paha* at the very least; and besides this he must pay a fine of twenty *dĕrham*."

70. Said Nushirwan, "What is the law applying when a man keeps an elephant and it kills someone?" The Minister made answer, "Your Majesty, if the elephant kills somebody in the jungle, three miles from the kampong, the owner incurs a fine of a *tahil* and a *paha*, and he must pay the funeral expenses. If an elephant kills a man within the limits of the kampong, it is a serious matter for the man who keeps the elephant. The elephant must be killed and the owner fined a *tahil* and a *paha*, and he must pay another *tahil* for the funeral expenses. And, moreover," said the Minister, "if anyone keeps the unclean animal in question, the order made is considered lenient. And the same orders are made in the case of other unclean [not eaten as food] animals."

71. "What would be the law in a case where a man kept buffaloes, one of which killed somebody?" The

Minister made answer, "If the man was killed in the jungle, the owner of the buffalo would have to pay the funeral expenses, and the buffalo would furnish meat for the funeral feast. If the death occurs in a kampong, the owner is responsible, and may be fined a *tahil* and a *paha*, and the buffalo will pass to the estate of the deceased and be used for his funeral expenses. If a buffalo wounds a man in a kampong, the buffalo is forfeited to the wounded man, and the owner is fined a *paha*. If the man is wounded in the jungle, the buffalo is forfeited only."

72. "On what principles should an intelligent man order his conduct in this life?" The Minister made answer, "Those who dwell in this world below should firstly see that their bodies are free from disease; secondly, that they have money enough; thirdly, that their opinions are respected by men; and fourthly, they should seek to hold office. When a man is endued with intelligence above his fellows, then only will the milk of kindness flow from his heart. The intelligence of less-gifted folk never emerges from its dungeon in the flesh."

73 "What are the rules applying to persons engaged in litigation?" The Minister made answer, "Firstly, they should realise that they are God's creatures; secondly, they must be acquainted with the customs of the country; thirdly, they should know the difference between truth and error. If a man know the established law of his country, he may be pardoned for a first offence."

74. Said Nushirwan, "What are the rules regulating warfare?" The Minister made answer, "Firstly, accumulate money; secondly, accumulate men; thirdly, you must have weapons; fourthly, brains; fifthly, military

science; sixthly, allies; seventhly, courage before the enemy; eighthly, strategy; ninthly, calculation; and lastly, a man among men must be discovered (for the command), and if the rank and file clamour, let them clamour! But your commander will be hard to find. In warfare his orders must be obeyed, and not the clamouring of the soldiery."

75. "What will be the law as to the devolution of the second husband's inheritance in the following case: A woman marries, has children, and is then divorced; she marries again, and has children by her second husband; then her second husband dies?" The Minister made answer, "The children by the former husband get a quarter share."[1]

76. Said Nushirwan, "What is the law regarding the disposition of the effects of a foreigner dying away from his own country and leaving large property?" The Minister made answer, "The custom is that the property goes to the raja or penghulu of the mukim, who are to be regarded as occupying the position of parents to him. If the foreigner dies penniless, the raja and penghulu of the place must bear the cost of burial and the funeral expenses. If there is any property —much or little—it goes to the penghulu in charge of the mukim."

77. Said the King, "My good Minister, what is the law to be followed in the case of a raja dying, when all his surviving descendants claim to succeed?" The Minister made answer, "Firstly, the eldest child will

[1] This probably means that (suppose) A (the woman) marries B, has a child C, is divorced, and then marries D, by whom she has no children, a quarter of D's estate goes to his widow A (as a sharer) and at her death to her only child C. The stepson C can only inherit through his mother A; he gets nothing if A predeceases D.—R. J. W.

succeed; in default of him, a younger may take his place, provided he is of fully royal blood."

78. Said Nushirwan, "What are the rules to be followed in the selection of the chiefs of a country?" The Minister made answer, "Firstly, they should be men of birth; secondly and thirdly, they must be men of property; fourthly, of sufficient age. If these four qualifications are present, the mukim will have peace and the peasants will prosper."

79. Said Nushirwan, "What are the rules applicable to the appointment of the kathis of a country or mukim?" The Minister made answer, "Firstly, they must be acquainted with the Law of God and His Prophet; secondly, they must know the laws and customs of the country; thirdly, they should have a good voice and read well; and fourthly, their bodies must be sound and without blemish, and they should be of good appearance."

80. "What are the regulations applying to the pawang of a mukim?" The Minister made answer, "Firstly, he must not be a speaker of lies; secondly, he must not be arrogant; thirdly, he must not be hot tempered; fourthly, not too anxious to grasp his fees. If a man has these failings he should not become a pawang.

81. "What is the law applicable to the case of a woman who is divorced, and whose husband wants her back within three months and ten days, but she is unwilling to return?" The Minister made answer, "The law is that if the woman is unwilling she may be forced to return to her husband within three months and ten days of the divorce; but the husband must give her her settlements in cash; if he is forcibly rejected, the woman must pay him the amount of the marriage settlement,

because he is prosecuting his suit as custom enjoins; if his suit be declined, as custom ordains, by formal return of the proferred settlement, that settles the matter."

82. "What is the law regarding the custody of children after divorce?" The Minister made answer, "If the child is under nine years of age it will live with the mother, if it is over nine it can please itself whether it lives with its father or its mother, but in the case of a girl it is right that she should live with the mother."

83. Said Nushirwan, "What is the law when foster-children marry?" The Minister answered, "According to the law[1] of this world they may do so, but their respective mothers must meet and forgive them, that they may obtain pardon. And the reason of this is that in this world father and mother and kings must be considered sovereigns paramount, taking the place on earth of Almighty God."

84. "What is the law applicable to the case of a man marrying a woman who has been suckled by his own wife?" Bardza Amir answered, "The marriage can take place, but alms must be distributed in the mosque—gold and silver. For in this world, provided the parties are able to pay, any offence against custom can be compounded. Even sentence of death may be commuted if compensation be paid according to the customs of the country and its rulers. For the use of money and the reason of its having been given to us by God is this,

[1] This seems a statement of Indonesian law. Muhammadan law prohibits marriage in such cases. The ceremonial pardoning is a formal recognition of the usual illegality of the marriage.—R. J. W.

"It is considered that if a woman take a child to nurse she contracts a sort of maternity towards it, and that if a boy and girl are nursed by the same woman they become brother and sister, and in a general way it is said that whatever is prohibited in consanguinity is prohibited in fosterage; but it is doubtful whether the law goes so far."—MARSDEN.

that the possessor of it should live in comfort and get clear of the consequences of his misdoings. If it were otherwise, what would have been the use of Almighty God having sent it into the world for his servants?"

85. This is the law concerning prohibited marriages: Persons who may not marry are—

Mother and son
Father and daughter
Brother and sister
} [on the ground of consanguinity.]

Widower or widow with a stepchild [by reason of affinity.]

The true believer with an infidel.

Foster brother and sister.

A man who cannot pronounce the "bismillah."

This is the table of prohibited marriages. All but those mentioned may intermarry according to the law of nations and these constitutions.

86. "What is the law where a man seduces the wife of another?" The Minister made answer, "If the husband finds (1) the seducer in his house, he may kill him outright, without fear of consequences. If the husband does not kill the seducer while in his house, when the latter comes before the raja or penghulu (2) the husband is no longer at liberty to kill him (3) but he has to pay a fine according to the custom of the country, besides twice the woman's marriage settlements and a fine of one hundred ingots."

87. "What is the law when a man hires a passage in a boat and it is damaged?" Said the Minister, "Each bears his own loss (the owner the loss of the boat, the passenger the loss of his goods); no recompense can be got from either party."

88. "What is the law applicable to a carrier of

goods by water?" The Minister made answer, "If the boat is damaged unintentionally, the carrier need not make good the loss; but if the goods are lost otherwise, the carrier—i.e., the owner of the boat—must replace them."

89. Said Nushirwan, "What is the law where a man hires a house or shop which is subsequently burnt?" The Minister made answer, "The landlord loses the rent from the commencement of the tenancy, and the tenant must pay the value of the house."

90. Said Nushirwan, "What is the law when a man hires a camel or other animal and it dies while in the possession of the hirer?" The Minister made answer, "If the beast dies at the end of its journey, the owner will receive the hire, but entirely lose the value of the animal. If the animal dies in the middle of a journey, the owner will lose his fare, and the hirer will pay the value of the animal."

91. Said Nushirwan, "What is the law in the following case: a man is found dead, or certain events take place; the neighbours assert that a certain person is the cause, but no one was an eye-witness, though it is certain that someone killed him. There are many accusers, but the person suspected will not admit it, and, as before stated, there are no eye-witnesses." The Minister made answer, "Your Majesty, if a white fowl flies in the daytime, everyone can see it and the thing is certain. If a black fowl flies at night time, who will know it? The flapping of its wings only will be heard.[1]

[1] With regard to a Malay's mental attitude towards a case where the evidence is slight and circumstantial, a police officer of an (unprotected) Malay State told me this. A Malay *hakim* had a case before him of buffalo stealing. The evidence was not clear. The *hakim*, on summing up, remarked, "*Dalam kĕrja kĕlam jadi kita mau buat dalam kĕlam sikit juga*" (for an offence in the dark, the reasons for the verdict may be also somewhat obscure), and sentenced the man to five years' imprisonment. This occurred about January, 1907.

So the person aforementioned cannot be convicted. But many persons are aware of the flight of the black fowl on that night; it will suffice to fine the suspected man in silver and in gold; or he may be put away privily."

92. "What are the conditions that promote peace in a country?" The Minister made answer, "Firstly, just laws; secondly, cheap food. Thus shall the country prosper."

93. Said Nushirwan, "What are the customs governing the chiefs of the country?" The Minister made answer, "The chiefs must support their raja; and, secondly, they must consider the welfare of the peasantry. And thus shall the country prosper."

94. "What would be the law in a case where a man received medical attendance, but was only partially cured?" The Minister made answer, "If a man is partially cured the patient must pay the cost of medicine only; if entirely, fees as fixed by these constitutions."

95. "What is the law regulating medical fees and their amount?" The Minister made answer, "For attendance on a lunatic the fee is a *tahil* and a *paha*—i.e., the price of a man's freedom. The fee in other cases will be one *paha*."

96. "What are the rules regarding ceremonial bathing to finally cast out evil spirits?" The Minister made answer, "The bathing platform for a raja shall be nine stages high; for a chief, five stages high; the common people shall have three stages only, and it will be an offence for one of the last mentioned to have more than three, he will have to pay a *paha* for transgressing the customs of the country."

97. "What are the rules where people are talking in assembly?" Said the Minister, "Let no one interrupt

a conversation between two persons or answer query of chief or raja if addressed to another individual."

98. "What are the rules applying to the penghulu of a district?" The Minister made answer, "His first duty will be to collect revenue; his second, to see to the administration of justice; his third, to reprove men, but not to bear malice; his fourth, not to turn cases before him to his personal gain. If a woman require a lodging on account of sickness she must be accommodated at once; but do not humour other persons."

99. Said Nushirwan, "What are the rules regulating the relation between rajas and the chiefs and peasants, and between the peasants and their chiefs?" The Minister made answer, "Your Majesty, whether it be good or evil, let not the raja keep the thing to himself, but let him speak of it to his chiefs. Similarly, in trouble or prosperity, let the chiefs report to the rajas, they should not keep anything back. And the chiefs should inform the peasants of good and ill, so that the people may hear and take notice. It is the duty of the raja or chief to see that his decision in a case, if at first concealed, be made known afterwards, so that the customs of the country may not be allowed to slumber."

MALAY TEXT.

FASAL mĕnyatakan kitab yang di-turunkan Allah ka-dalam dunia ini, banyak-nya sa-ratus ĕmpat-puloh ĕmpat buah; yang sa-ratus itu masok kapada ĕmpat [puloh] buah; [yang ĕmpat-puloh masok kapada ĕmpat]; yang ĕmpat itu masok kapada sa-buah.

Maka di-turunkan pula hukum tujoh pĕrkara mĕng-hukumkan hamba Allah taala di-dalam dunia; satu hukum kapada Nabi Adam, kĕdua hukum kapada Nabi Daud, kĕtiga hukum kapada Nabi Sulaiman, kĕĕmpat hukum kapada Nabi Musa, kĕlima hukum pada Nabi Isa, kĕĕnam hukum kapada Nabi Ibrahim, kĕtujoh hukum kapada Nabi Muhammad. Maka Nabi Muhammad turun-kan pula ĕmpat pĕrkara hukuman kapada sahabat ĕmpat itu: hukum dunia kapada Abubakar, hukum yang lĕmah; kapada Baginda Omar, hukum kuat kĕras; kapada Ba-ginda Osman, di-bĕri hukum lĕmah sa-dikit, kuat sa-dikit; kapada Baginda Ali di-bĕri hukum yang murah. Maka dĕmikian itu-lah di-hukumkan di-atas sakalian hamba Allah anak Adam, apa-apa bichara bĕrhukum salah dan bĕnar, sakalian hamba di-dalam dunia ini. Maka tiap-tiap di-hukumkan hukum yang lĕmah itu pun, jika bĕtul tiada dĕngan aniaya boleh juga di-hukumkan; maka hukum yang kuat kĕras itu pun jika tiada aniaya boleh juga di-hukumkan, dan hukum lĕmah sadikit kĕras sa-dikit itu pun jika bĕtul dĕngan salah-nya boleh juga, dan hukum yang murah itu pun, jika bĕtul boleh juga di-hukumkan dĕngan bĕnar-nya anak Adam. Bahwa maka ini-lah undang-undang sĕmbilan-puloh-sĕmbilan kĕturunan dari-pada Raja Nasruan Adil, anak Raja Kobat, nama nĕgĕri-nya Mĕdayan, raja mashrek maghrib. Maka

ada sa-orang mĕntĕri-nya bĕrnama Khodja Berdza Amir Hakim anak mĕntĕri Bahatek Jamal tĕrus mata-nya, ia-lah jadi mĕntĕri di-bawah Raja Nasruan Adil sakalian mĕntĕri di-dalam dunia ini sĕmua-nya di-bawah hukum-nya; jadi ini-lah undang-undang di-turunkan ka-bawah angin ini, turun-tĕmurun mĕnjadi ikutan pada mana-mana nĕgĕri yang ada bĕraja dan orang bĕsar-bĕsar, supaya boleh di-jalankan hukum undang-undang ini. Dan jikalau ada kadzi di-atas itu boleh sama-sama di-jalankan hukum sĕpĕrti hukuman yang dalam Koran itu dĕngan hukum undang-undang ini. Sĕbab pun maka di-turunkan undang-undang ini karna ada-lah tiap-tiap nĕgĕri itu ada raja-nya dan orang bĕsar sĕrta dĕngan pĕnghulu-nya dan anak baik-baik supaya mĕnĕntukan pangkat-nya; jika di-dirikan hukum Koran dĕngan hukum undang-undang di-dalam sa-buah nĕgĕri nĕschaya aman-lah isi nĕgĕri itu. Maka barang siapa tiada mĕngikut hukum sĕpĕrti yang tĕrsĕbut di-dalam undang-undang itu, maka orang itu kĕna dudok di-luar nĕgĕri dan diam di-dalam hutan. Maka aman-lah orang mĕmĕrentah nĕgĕri-nĕgĕri. Jikalau tiada mau mĕmakai undang-undang dan apa-apa hukum Koran, maka tĕrsebut di-dalam undang-undang "Orang itu tiada boleh mĕmĕgang pĕrentah di-dalam nĕgĕri," dĕmikian-lah titah Raja Nasruan Adil sama Mĕntĕri Khodja Berdza Amir Hakim, karna sakalian raja-raja dan orang bĕsar-bĕsar di-dalam dunia ini taalok di-bawah pĕrentah Raja Nasruan Adil dan mĕntĕri Berdza Amir Hakim. Maka turun ka-bawah angin ini di-bawa Saiyid Hassan, tatkala masa itu Sultan Ahmad Tajuddin marhum Tanah Abang, nama mĕntĕri-nya Tuan Saiyid Abdul Majid, undang-undang jatoh kapada To' Tambak mana bangsa Saiyid jadi mĕntĕri, itu-lah undang-undang di-pakai, satu hukum shara' dua hukum undang-undang.

1. Undang-undang orang mĕngadu: maka titah Raja Nasruan Adil, "Apa-lah hukum-nya bilang-bilang hari orang datang mĕngadukan orang mĕnchuri harta orang?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika sa-kali boleh di-muafakatkan, suroh ganti barang itu; jika sampai dua kali di-potong jari-nya; jika sampai tiga kali di-buang orang itu daripada mukim itu."

2. Undang-undang orang bĕrlukaan: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika luka itu di-atas pusat, kĕna diat sa-tahok ĕmas: ada pun di-dalam sa-tahok ĕmas paha, di-dalam sa-paha ĕmas itu harga-nya $5 perak, jadi-nya sa-tahok sa-paha ĕmas itu harga-nya $25: jika luka-nya di-bawah pusat, kĕna diat sa-paha ĕmas; jika luka bĕrdarah sa-dikit sa-dikit dĕngan bĕrputeh hati kĕna sa-hĕlai kain puteh."

3. Undang-undang orang mĕmbunoh orang: maka titah Raja Nasruan Adil, "Apa-kah hukum-nya?" Maka sĕmbah Mĕntĕri, "Orang yang mĕmbunoh itu, di-bunoh juga; akan tĕtapi jika sama orang Islam, apa-bila sampai kapada hakim, tiada boleh di-bunoh hanya di-hukum lima tahil ĕmas sahaja dan kĕna khandurikan kĕrbau atau kambing puteh atau unta puteh supaya lĕpas."

4. Undang-undang orang kafir mĕmbunoh orang Islam: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Tiada boleh di-bunoh kafir itu, karna tiada-lah dapat Islam dunia akhirat: hingga minta supaya boleh mana-mana suka hati oleh kaum-nya. Jika orang kafir di-bunoh oleh orang Islam boleh di-bunoh anak Islam, akan tĕtapi jika lalu mĕngĕluarkan ĕmas pada kaum-nya dan kapada hukum ĕmas jua sa-puloh tahil ĕmas, boleh lĕpas."

5. Undang-undang orang pĕrĕmpuan tiada tĕntu bapa-nya, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri: "Di-

atas tiga pĕrkara; pĕrtama kata pĕrĕmpuan itu sipolan bapa-nya anak-nya itu, karna Allah bĕrdiri kapada yang bĕnar tiada boleh di-buat, jika bĕtul pada fikiran tiada dzalim kapada hamba-nya; dan jika pĕrĕmpuan itu tiada bunting kata-nya laki-laki mĕmbuat dia binasa." Maka sĕmbah Mĕntĕri, "Jika dapat tanda sĕluar di-pakai-nya, tiada-lah boleh dapat di-jawab laki-laki itu jikalau tiada tanda, pĕrĕmpuan itu tĕngah bĕrlutut bĕrtĕmu dĕngan waris-nya tiada-lah dapat di-jawab oleh laki-laki itu taalek dahulu baik-baik, hukum-nya nikah juga; karna anak Islam itu jikalau banyak di-dalam nĕgĕri anak yang tiada nikah, jadi tĕrtanggong di-atas raja-nya, karna banyak anak tiada nikah itu. Jika sa-orang pĕrĕmpuan bunting di-nikahkan juga. Dan lagi jika pĕrĕmpuan mĕngadu, tiada tanda tiga pĕrkara itu, tiada boleh di-tĕrima dan tiada boleh di-tĕrima yang tiada bĕrjalan di-dalam undang-undang."

6. "Undang-undang orang mĕngambil pĕrĕmpuan orang, apa hukum-nya?" Maka sĕmbah Mĕnteri, "Di-buang dari-pada mukim itu, jika tiada di-buang di-dĕnda sa-paha tiga tahil ĕmas; pĕrĕmpuan itu di-dĕrakan di-pintu masjid di-chukur akan dia tĕtapi jika lalu mĕng-adakan dĕnda lĕpas-lah dia."

7. "Undang-undang sa-sa-orang pĕrĕmpuan hĕndak chĕrai dĕngan laki-nya, apa hukum-nya?" Maka sĕm-bah Mĕntĕri, "Hukum-nya, jika sudah sampai tiga kali ka-balai ia mĕngadu, boleh juga di-chĕraikan, tĕtapi kĕna pĕrĕmpuan itu mĕnĕbus talak sa-banyak bĕlanja nikah-nya, dan kĕna undang-undang balai sa-paha ĕmas. Dan jika laki-laki hĕndak chĕrai, nĕschaya kĕna timbang di-dalam tiga bulan dua paha ĕmas, bĕlanja nikah di-bayar sĕmua-nya dĕngan ĕmas; karna jikalau mana-mana anak Adam nikah, bĕlanja-nya tiada lĕbeh daripada sa-tahil

sa-paha ĕmas. Maka timbangan itu, jika tiada ĕmas, baharu-lah boleh yang lain-lain, karna dalam tuboh anak Adam itu darah ada-nya."

8. "Undang-undang pĕrkataan sahaja marah akan sa-sa-orang sĕrta mĕnyĕbut nama Allah dan nama ĕmak bapa mĕreka itu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Salah kapada hukum kĕna dĕnda sa-paha ĕmas."

9. Undang-undang bĕlanja orang kahwin. Maka titah Raja Nasruan Adil, "Bĕrapa banyak bĕlanja tuboh pĕrĕmpuan itu." Maka sĕmbah Mĕntĕri, "Sakalian daripada anak Adam tiada lĕbeh daripada sa-tahil sa-paha ĕmas: maka timbangan-nya jika lain-lain daripada itu ya'-itu bangsa raja-raja sa-puloh paha ĕmas dan jika bangsa Hashim bĕlanja-nya lima tahil ĕmas; karna di-ambil murtabat-nya di-lĕbehkan di-dalam dunia. Dan bangsa Hashim yang pĕrĕmpuan-nya tiada boleh kahwin dĕngan mĕreka-mĕreka anak Adam, mĕlainkan jika di-tĕbus-nya bangsa mĕreka-itu; ya'itu lima paha ĕmas baharu-lah boleh kahwin, akan tĕtapi ĕmas itu hĕndak-lah di-sĕdĕ-kahkan sa-tahil sa-paha, baharu-lah lĕpas."

10. "Undang-undang abdi orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika sa-orang jahat dĕngan adat-nya di-bawa-nya chukup istiadat kĕlĕngkapan di-timbang-nya boleh-lah di-nikahkan, pĕchah adat nama-nya; dan kalau sa-orang hĕndak nikah tiada tĕrtimbang-nya sĕpĕrti itu hanya tuboh sahaja, jadi engkar nama-nya; boleh di-turunkan dĕngan kĕras. Dan jika mĕreka-itu mĕmbawa gĕnap sĕpĕrti adat-nya sa-olah-olah sunggoh ia hĕndak nikah juga: Maka jika hĕndak di-turunkan boleh juga, akan tĕtapi kĕna timbang kapada-nya sa-banyak bĕlanja tuboh si-pĕrĕmpuan itu, dan jika sa-orang pĕrĕmpuan ya'itu anak dara dan ia ada mĕmpunyaï sa-orang saudara kĕmudian ia-nya hĕndak kahwin dĕngan

barang siapa pun, jika saudara-nya itu tiada suka, maka tiada-lah boleh ia kahwin; dan jikalau pĕrĕmpuan itu tiada bĕrsaudara, boleh-lah ikut suka-nya yaani boleh-lah nikah, tĕtapi hukum-nya mana-mana orang bĕsar-bĕsar di-dalam mukim itu boleh-lah ganti saudara atau waris-nya dan jika si-pĕrĕmpuan itu sudah janda boleh juga mĕngikut kĕhĕndak hati-nya yang patut."

11. Undang-undang orang jadi raja atau jadi pĕnghulu di-dalam sa-buah nĕgĕri atau mukim: maka titah Raja Nasruan Adil, "Bagaimana adat-nya?" Maka sĕmbah mĕntĕri, "Ada-pun hutang pĕnghulu kapada rayat-nya, pĕrtama-tama mati rayat-nya di-tanam, kĕdua hilang rayat-nya di-chari, kĕtiga kusut di-sĕlĕsaikan, kĕ-ĕmpat jika salah di-patutkan. Maka hutang rayat kapada pĕnghulu dua pĕrkara: pĕrtama-tama di-laung oleh pĕnghulu, datang ia; dan di-suroh, pĕrgi ia; dan lagi tatkala orang mĕngadap bichara itu lihat baik-baik rupa-nya jika orang yang salah itu, salah rupa-nya, salah dudok-nya, salah bĕrdiri-nya, salah pĕrkataan-nya sĕrba yang salah sa-barang laku-nya, maka mĕreka yang salah itu di-salahkan juga; dan dĕmikian pula yang bĕnar itu hĕndak-lah di-bĕnarkan juga hukum-nya, tĕtapi boleh di-bedzakan antara salah kĕchil dan salah bĕsar di-atas mĕreka-mĕreka sakalian, dan lagi di-atas bichara mĕreka itu di-hukumkan bĕtul-bĕtul, jangan di-ambil paedah di-atas mĕreka-mĕreka itu tatkala di-dalam mana-mana bi-chara pun."

12. Undang-undang orang jadi pĕgawai pĕrentah di-dalam mukim mana-mana: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah mĕntĕri, "Boleh dapat makanan pada di-atas orang Islam; pĕrtama hakim yang mĕnghukumkan daerah mukim itu, kĕdua-nya imam, kĕtiga-nya pĕnghulu yang mĕmĕliharakan masjid, kĕ-

ĕmpat khatib, kĕlima bilal, kĕĕnam pawang, kĕtujoh bidan. Sĕbab ada pĕlihara-nya di-atas mukim; jikalau ada di-kuatkan siapa mĕreka yang tiada sĕmbahyang jumaat, kĕna dam sa-tĕngah paha ĕmas; ada pun imam itu mau-lah mĕmbĕtulkan tahun dan bulan dan harí, bĕtulkan apa-apa ugama Islam, ya'itu pĕtua di-atas sakalian ma'amum-nya; dan hukum orang mĕnjadi khatib itu mĕnĕgahkan daripada sakalian bĕnchana; dan bilal itu raja di-dalam masjid dan pawang itu raja di-dalam rumah orang yang bĕrubat karna sakit dan ladang atau di-tĕmpat galian; bidan itu raja di-dalam rumah orang yang sakit hĕndak bĕrsalin tĕtapi sakalian-nya itu taalok kapada pĕnghulu sĕmua-nya."

13. "Undang-undang kampong atau dusun yang sudah tinggal, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jikalau yang ĕmpunya tanam-tanaman itu sudah mati, barang siapa orang yang lalu-lalang pada tĕmpat itu boleh-lah di-makan oleh mĕreka itu akan buah-nya, tiada dĕngan harga di-atas buah-buahan yang tĕlah di-makan-nya itu antara lalu pada tĕmpat itu sahaja, dan jika hidup lagi tuan dusun itu maka orang asing pula diam di-situ, boleh-lah bĕrsama-sama mĕmakan buah-nya itu mĕreka yang ĕmpunya dan orang yang mĕnumpang itu: jika dusun yang sudah tinggal, barang-siapa orang yang dudok dĕkat sĕrta mĕnolong pĕliharakan tanam-tanaman itu, boleh-lah bĕrbahagi dua dĕngan tuan-nya itu, tĕtapi tatkala datang tuan yang punya tanah itu, hĕndak mĕngambil buah-nya, mau-lah bĕrsama-sama juga mĕmbĕri khabar kapada orang yang diam atau mĕnunggu dusun itu; jika di-ambil sahaja dĕngan tiada bĕrkhabar nĕschaya salah mĕreka-itu, dan di-dĕnda sa-paha ĕmas: dan jika sa-kira-nya sudah mati pula yang ĕmpunya chuchok tanaman kampong atau dusun itu, maka bahagian itu

pulang kapada anak-nya yang pĕrĕmpuan; karna yang tinggal itu adat-nya mĕnjadi harta raja; dan pĕnghulu ĕmpunya milek."

14. "Undang-undang orang mĕnghidupi binatang jinak sĕpĕrti kĕrbau kambing atau lain-lain binatang yang halal, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika binatang itu di-lukaï oleh barang siapa-siapa orang lain hukum-nya kĕna diat bahagi dua harga-nya kapada yang ĕmpunya itu; dan jika binatang haram di-hidup oleh orang, maka ia mĕlukaï atau mĕmbinasakan orang, hukum-nya binatang itu di-buang dan tuan-nya kĕna mĕmbayar sa-paha ĕmas pada orang itu: dan jika mati pula sa-sa-orang oleh binatang hidup-hidupan itu, maka binatang itu tĕrpulang-lah kapada waris si-mati itu dan tuan-nya itu kĕna dĕnda pula sa-tahil sa-paha ĕmas; dan jikalau bina-tang haram bĕrbuat dĕmikian itu; hanya di-bayar dĕnda sa-paha ĕmas sahaja."

15. "Undang-undang tanam-tanaman di-bunoh oleh orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika tanam-tanaman itu tinggal tiada bĕrguna lagi; kalau tiada di-minta oleh tuan-nya sa-kali pun bayar harga-nya bahagi dua harga dan kĕna dĕnda sa-paha ĕmas, jika ta-nam-tanaman itu bĕrguna, bayar harga-nya dan kĕna dĕnda sa-paha ĕmas."

16. Undang-undang hamba atau kawan orang lari. Maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri Khodja Berdza Amir Hakim, "Jika lĕpas sudah di-jalani-nya suatu anak sungai di-dapat oleh orang, kĕna tĕbus sa-tĕngah paha ĕmas; jika sampai dua anak sungai kĕluar daripada mukim itu, kĕna tĕbus tĕngah tiga paha ĕmas; jika orang-nya lari itu masok kapada rumah orang, maka tiada di-khabarkan-nya oleh tuan rumah itu kapada tuan yang mĕngikut-nya itu salah,

kĕna dĕnda di-atas tuan rumah sa-paha ĕmas; jika hamba orang lari itu anak ĕmas, boleh di-ambil dĕngan kuat, jika anak mĕrdĕheka kalau ada orang mĕmbayar-nya boleh bayar."

17. "Undang-undang orang hutang piutang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Lihat dahulu baik-baik jika ia sĕsak apa-apa janji-nya pun jangan di-pakai; jika orang hĕndak bĕrhutang pĕrtama-tama bĕtul ijtihad ada pĕncharian-nya yang bĕtul apa-apa maksud-nya sĕbab ia hĕndak bĕrhutang itu. Jikalau sĕbab pĕkĕrjaan jahat jangan di-bĕri bĕrhutang."

18. "Undang-undang orang datang mĕngadu sĕsak hutang atau sĕsak kira-kira-nya, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama tolong dĕrham; jika tiada duit tolong dĕngan akal; jika tiada akal tolong dĕngan bichara kira-kira di-surohkan; jika tiada tolong kudrat dĕngan kĕrja, salah suatu jangan tidak atas orang yang kĕsĕsakan itu."

19. "Undang-undang orang mĕnumpang rumah orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, si-pĕnumpang itu tiap-tiap ia masok kĕluar daripada rumah itu mahu-lah di-nyatakan kapada tuan rumah itu; jika di-nyatakan-nya, kalau pĕnumpang hilang kĕchurian atau mati di-dawa orang di-atas punya rumah itu, dan jika sĕbab orang mĕnumpang itu turun naik, maka rumah itu kĕna churi orang lain, maka kĕna ganti di-atas orang mĕnumpang itu, bahagi dua; jika orang mĕnumpang itu sĕgan kĕna ganti dan kĕna dĕnda satahil sa-paha ĕmas."

20. "Undang-undang orang bĕrjalan sama-sama, maka sampai pada suatu tĕmpat bĕrmalam di-mana-mana, maka sa-orang kawan-nya kĕhilangan barang-nya, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika

hilang-nya itu pada malam hari mau-lah bĕrbahagi sama-sama banyak mana-mana orang itu; jika hilang-nya pada siang hari barang siapa yang punya barang sĕndiri-lah sahaja ada-nya."

21. "Undang-undang orang sama sa-kampong bĕrdawa, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika dapat pĕrdawaan sĕbab kĕlakuan atau sĕbab kata-kata mulut-nya sahaja tiada-lah boleh di-hukumkan dĕngan ĕmas, mau-lah bĕri tĕgah sahaja dahulu; jikalau di-buat-nya juga lain-lain kali, boleh di-adatkan yang bĕtul."

22. Undang-undang orang bĕsar-bĕsar tatkala datang orang mĕmbawa aduan: maka titah Raja Nasruan Adil, "Bagaimana hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, mau-lah di-chari fikiran dahulu yang sĕmpurna karna di-atas tĕrsĕbut ada baik-nya dan ada jahat-nya; maka di-dalam baik itu ada pula jahat-nya: pĕrtama-tama pĕreksa, kĕdua sĕlidek, kĕtiga ungkit orang itu, kĕĕmpat marah, kĕlima pujok, kĕĕnam tipu dahulu, kĕtujoh di-tĕrangkan kĕbaikan di-hati-nya, kĕmudian baharu-lah lawan bĕrkata-kata dan mau-lah ingat akan Allah taala dahulu apa-apa diri kita baharu-lah pandang muka sĕtĕru itu, karna mana-mana Hakim itu sĕtĕru pada orang sakalian."

23. "Undang-undang orang mĕmbunoh sama-sama Islam: maka titah Raja Nasruan Adil, "Apa-lah hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika di-bunoh orang Islam sama Islam tiada boleh di-bunoh ia jika di-bunoh jadi di-belakan binasa-lah kĕdua-nya, jadi mati kafir yang mĕmbunoh; yang boleh di-hukumkan kĕna diat ĕmpat tahil dua paha ĕmas sa-kurang-kurang-nya dua dĕrham, di-sĕdĕkahkan supaya lĕpas dĕnda sa-tahil sa-paha ĕmas."

24. "Undang-undang orang mĕngadap raja-raja atau orang bĕsar-bĕsar: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Tatkala dudok di-balai itu mau-lah tundokkan kĕpala dan tiada boleh di-liarkan mata dan jangan mĕmandang muka-nya dan suara jangan di-bĕsarkan, tĕtapkan diri sĕpĕrti dudok diam di-dalam adat."

25. "Undang-undang orang mĕnjadi Hakim di-balai tatkala datang pĕrdawaan, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Hakim itu pĕrtama-tama dahulu ingat-kan Allah dan Nabi, kĕdua ingatkan diri sĕndiri, kĕtiga sĕmua-nya orang itu, kĕĕmpat ingatkan chucha pĕmanah hati-nya; kĕmudian baharu di-pĕreksa daripada mula datang kĕsudahan-nya, jika sudah dĕmikian itu jikalau orang yang salah rupa muka-nya dan chakap-nya pun salah, dudok-nya pun salah, bĕrjalan pun salah, dari-pada rupa-nya." Maka titah Raja Nasruan Adil, "Apa pula hukum-nya?" Maka sĕmbah Mĕntĕri Khodja Berdza Amir Hakim, "Boleh charikan mana-mana jalan-nya."

26. "Undang-undang orang mĕmbawa kiriman orang tiada di-sampaikan dĕngan di-sahaja-nya, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Barang itu di-gantikan kĕna dĕnda dua-puloh dinar; jika sĕbab sa-suatu aral-nya tiada di-sampaikan jika barang-barang makan-makan di-ganti-nya bahagi dua, jika bukan barang makanan di-ganti sĕmua-nya tiada-lah salah mĕreka itu."

27. "Undang-undang upah ubat orang sakit, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika gila jadi baik sĕbab ubat itu, sa-tahil ĕmas upah-nya itu; jika chabok sa-tahil ĕmas; jika lain-lain sakit sa-paha ĕmas tiap-tiap bĕlanja pĕrkakasan ubat itu di-chari oleh pawang-nya."

28. "Undang-undang orang mĕmbĕla hantu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika orang masok hantu sampai mandi balai, upah-nya sa-paha lima dĕrham ĕmas; jika mĕmbuang hantu atau mĕnolak hantu sa-paha ĕmpat-bĕlas dĕrham ĕmas ya'itu ĕmas dinar upah-nya."

29. "Undang-undang orang mĕmbĕla kampong, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika mĕmbĕla kampong sa-paha ĕmas upah-nya, barang-barang yang lĕbeh itu pulang kapada pawang; jika mĕmbĕla galian dĕngan hantu, pawang itu upah-nya sa-paha ĕmas, barang-barang yang lĕbeh itu pulang kapada pawang-nya juga, dan salinan pawang itu dĕngan baju tĕngkolok-nya hitam. Maka pawang-pawang itu mana-mana bĕnda yang binasa di-poleh-nya, boleh dapat chachat-nya jika ladang atau lain-nya kain puteh satu kĕrat barang yang lĕbeh itu pulang kapada pawang dan pawang itu tiga bulan sa-kali datang mĕmoleh padi itu supaya dapat pĕngkĕras-nya tiap-tiap sa-orang dua dĕrham."

30. "Undang-undang orang pĕrĕmpuan anak dara hĕndak chĕrai dĕngan laki-nya, maka laki-nya bĕlum dapat bunga tuboh-nya lagi sĕbab kĕras pĕrĕmpuan itu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Boleh chĕrai bĕlanja tuboh-nya hilang, kĕna tĕbus talak sa-tahil sa-paha ĕmas."

31. "Undang-undang orang chĕrai, dan bahagi harta-nya, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika laki-laki hĕndak chĕrai tiada-lah salah pĕrĕmpuan itu, bayar bĕlanja-nya di-dalam tiga bulan, dan barang-barang bahagi dua; mana-mana barang bĕsi atau sĕnjata pulang-lah kapada laki-laki, luar bahagi barang-barang tĕmbaga atau pĕrkakasan minum makan pulang kapada pĕrĕm-puan; jika ada rumah atau kampong pulang kapada pĕrĕmpuan, hutang piutang pulang kapada laki-laki; jika

chĕrai sĕbab salah pĕrĕmpuan itu, pĕrtama-tama zina, kĕdua tiada mau mĕmĕrentahkan makan dan tidur, kĕtiga tiada mau bĕramal dan ibadat pada Allah, hingga di-bayar bĕlanja tuboh sahaja, dan undang-undang di-balai sapaha ĕmas atas laki-laki, jika pĕrĕmpuan hĕndak chĕrai sampai tiga kali dia mĕngadukan salah laki-nya, boleh juga di-chĕraikan, tĕtapi kĕna tĕbus talak sa-banyak bĕlanja tuboh-nya, barang-barang pulang kapada laki-nya dan tiada-lah boleh kĕna apa-apa pada laki-nya; jika laki-nya itu mau nikah boleh dĕngan pĕrĕmpuan itu, kalau pĕrĕmpuan suka boleh juga, akan tĕtapi mau bawa bĕlanja-nya sĕpĕrti nikah dahulu juga."

32. "Undang-undang orang pĕrdawaan ka-mana-mana, apa-apa yang di-patutkan?" Maka sĕmbah Mĕntĕri, "Di-dalam kĕturunan undang-undang paduka ayahanda Raja Kobat, jika pĕrdawaan orang anak-bĕranak dĕngan ĕmak-nya atau bapa-nya, maka tiada-lah boleh di-hukumkan, jika di-hukumkan nĕschaya dzalim raja itu atau orang bĕsar-bĕsar-nya, hingga di-patutkan sahaja. Jika orang bĕrsaudara adek-bĕradek boleh dĕngan hukum mufakat, karna adat orang anak-bĕranak dan adek-bĕradek sa-malu sa-aib rugi bĕrsama rugi; tiada boleh di-ikutkan; jika di-ikutkan oleh raja-nya binasashara'."

33. "Undang-undang orang bĕrbahagi harta pĕsaka, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika ada kampong dan rumah dan pinggan mangkok pĕriok bĕlanga tikar itu di-buat bahagi pulang pada anak yang pĕrĕmpuan; jika barang-barang bĕsi atau sĕnjata atau bĕndang atau galian pulang pada anak laki-laki; jika ada hutang-piutang satu bahagi pulang pada anak pĕrĕmpuan, dua bahagi pulang pada anak laki-laki dan mana-mana harta barang-barang yang lain-lain bahagi dua sĕmua-nya, karna anak itu tiada-lah lĕbeh dan kurang, sama-sama di-

jadikan bĕlaka; dan di-dalam itu jika ada pula anak yang bĕlum nikah dapat lĕbeh sa-puloh satu."

34. Undang-undang orang mati tiada bĕranak ada bĕrharta: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Tatkala di-kabumikan itu, bĕri harta-nya ka-pada orang yang mĕmĕrentah mukim daerah itu; sa-banyak bĕlanja tuboh-nya (isi kahwin) daripada harta itu di-sĕdĕkahkan pada kadzi, jika ada lĕbeh lagi khandurikan sampai sa-ratus hari lagi diri-nya; jika lĕbeh lagi baharu-lah dapat pada kaum-nya, kapada raja atau orang daerah mukim itu, di-bĕri mana-mana patut-nya barang itu."

35. "Undang-undang orang bujang yang muda bĕlum nikah mati, maka ada harta-nya banyak dan ĕmak bapa-nya dan saudara-nya ada bĕlaka hidup lagi, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Tiada-lah boleh ĕmak bapa-nya itu dapat barang-barang-nya, yang boleh pulang pada saudara-nya, akan tĕtapi saudara-nya itu mau-lah di-bĕlanjakan atas yang mati itu, dan mana-mana pakaian tuboh-nya itu pulang pada ĕmak bapa-nya; jika orang itu tiada ĕmak bapa-nya dan saudara-pun tidak pulang pada raja atau kadzi barang-nya itu."

36. Undang-undang abdi orang: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika bangsa-nya daripada orang kafir tiada bĕrkitab boleh di-jual (bukan hamba bĕrhutang) tiada dĕngan hutang sa-pĕnoh harga-nya, jika Islam ĕmak bapa-nya sahaja yang bĕrhutang dahulu-nya, boleh di-tĕrima satahil sa-paha ĕmas pada sa-orang jadi pĕnĕbus-nya."

37. "Undang-undang orang bunting yang tiada tĕntu bapa-nya, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Hukum nĕgĕri Islam di-nikahkan juga, jika tiada nikah binasa nĕgĕri Islam, ya'itu banyak anak

tiada nikah; jika tiada lalu pĕrĕmpuan mĕncharikan bapa-nya, mau-lah raja-raja mĕmĕrentah nĕgĕri itu mĕncharikan bapa-nya; jika nĕgĕri itu kafir raja-nya, boleh juga orang bunting itu tiada nikah."

38. "Undang-undang orang bunting dahulu, kĕmudian nikah-nya dan tatkala sudah nikah itu lalu chĕrai, maka apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Boleh juga chĕrai, tĕtapi-nya apa-bila bĕranak itu mau-lah pĕlihara sampai ĕmpat-puloh-ĕmpat hari oleh bapa-nya itu, jika anak-nya itu mati, di-dalam tujoh hari sahaja di-pĕlihara di-atas pĕrĕmpuan itu, upah bidan atau lain-lain-nya kĕna bayar oleh laki-nya."

39. "Undang-undang nafkah orang chĕrai?" Maka sĕmbah Mĕntĕri, "Nafkah-nya di-dalam sa-paha ĕmas, tĕtapi jika ada bĕranak yang kĕchil atau tĕmpat di-dalam pĕkan bĕsar boleh di-bĕri tĕngah tiga paha ĕmas; jika di-dalam nĕgĕri hutan tĕmpat pĕrĕmpuan itu, ada-lah tĕmpat mĕmbuat pĕrmakanan, sĕpĕrti orang nĕgĕri itu, maka tiada-lah boleh di-bĕri nafkah, karna boleh ia mĕmbuat kĕrja sĕndiri-nya."

40. "Undang-undang orang di-dalam kampong, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jikalau ada sa-orang tua pĕrĕmpuan yang tiada bĕranak buah di-dalam kampong itu maka tiada boleh di-tĕrima diam orang tua itu, kalau-kalau sĕpĕrti ia mĕnaroh hantu yang jahat mĕndatangkan bĕnchana dan pĕrgadohan di-dalam kampong itu, dan lagi jika ada sa-orang yang jahat di-dalam kampong itu, tĕntu-lah di-ikut oleh orang yang banyak, mana-lah tĕrjaga oleh kĕtuaan tĕmpat itu."

41 "Undang-undang pĕrĕmpuan hĕndak chĕrai, tiada dĕngan salah suami-nya suatu pun, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Tiada-lah dapat pĕrĕmpuan itu

chĕrai; boleh di-buang ka-dalam hutan tujoh hari sa-orang diri-nya, jika sudah balek di-kĕlilingkan ka-masjid supaya tahu pada orang yang di-dalam mukim itu, boleh ia ingat masing-masing."

42. "Undang-undang orang mĕnghidup binatang itu mĕrosakkan tanam-tanaman orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ganti tanam-tanaman itu atau di-bayar harga-nya. Jika binatang itu mĕlukakan orang, boleh di-bunoh binatang itu, tuan-nya kĕna dĕnda sa-paha ĕmas, akan tĕtapi tanaman itu mau-lah dĕngan pĕliharanya. Jika binatang kĕchil tiada-lah kĕna dĕnda hingga di-buang sahaja ka-ayer jika ia jahat."

43. "Undang-undang orang mĕmbuka tanah dan ayer, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika datang orang yang kĕmudian, sa-bĕlah ulu tĕmpat itu tiada boleh jadi; jika sa-bĕlah hilir-nya boleh jadi, tĕtapi jadi rosak kĕrja orang yang di-ulu itu tiada boleh mau-lah pulangkan bĕlanja-nya boleh dapat bahagi dua."

44. "Undang-undang orang bĕrladang padi di-makan oleh hidupan orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika ladang itu kukoh pagar-nya, di-gonchang oleh sa-orang tiada rĕbah atau bĕrgĕrak, jika di-masok oleh kĕrbau atau lain-lain binatang boleh di-bunoh binatang itu jika binatang mula-mulakan buka pagar; jika tuan-nya itu mau bayar sa-pĕnoh harga-nya boleh di-pulangkan hidupan-nya itu, jika tiada boleh di-ambil; jika binatang haram sĕpĕrti singa atau lain-lain binatang, salah tuan-nya itu, jika ladang itu tiada bĕrpagar, bayar bahagi dua harga-nya yang di-adatkan, jika binatang itu masok daripada tĕmpat orang yang tiada bĕrpagar lalu di-makan-nya pada tĕmpat yang kukoh pagar-nya kĕna-lah orang yang tiada kukoh pagar itu satu bahagi bayar, pada orang yang punya binatang itu dua bahagi."

45. "Undang-undang orang mĕngidup singa atau gajah ya'itu binatang yang bĕsar, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika hĕndak di-lĕpaskan kira-kira sa-kĕroh bumi jauh-nya daripada kampong orang, jika di-lĕpaskan tampak daripada kampong, jika rosak tanam-tanaman orang harga-nya bayar kĕna dĕnda dua puloh lima dĕrham; jika kĕrbau atau lĕmbu makan pada siang hari di-dalam ladang itu, tiada bayar harga-nya, jikalau malam bayar harga-nya."

46. "Undang-undang orang bĕrjual bĕli kĕrbau atau kambing, kĕmudian hilang, apa hukum-nya?" Maka sĕmbah Mĕntĕri Khodja Berdza Amir Hakim, "Jika sa-orang mĕmbĕli kĕrbau pada hari itu hilang kapada tĕmpat-nya, di-chari tiada dapat, sĕrta bĕlum lĕpas daripada mukim itu, maka pulang harga-nya bahagi dua; jika mati hari itu di-dalam tĕmpat dusun mĕmbĕli itu, pulang harga-nya bahagi dua; jika hilang di-churi orang kĕna atas orang yang mĕmbĕli sahaja; jika orang mukim itu yang mĕmbĕli-nya, jika sudah di-bawa-nya lĕpas daripada di-dalam kampong tĕmpat mĕmbĕli itu hilang atau mati, tiada boleh di-dawa lagi; jika di-dalam tĕmpat mĕmbĕli lagi hilang-nya, pulang bahagi dua harga-nya."

47. "Undang-undang orang mĕnghidup kambing, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika di-makan-nya tanam-tanaman orang yang ada pagar-nya bayar harga-nya, jika tiada pagar-nya tiada bayar harga-nya, karna bangsa kambing itu di-dalam kampong tĕmpat-nya."

48. "Undang-undang orang mĕnghidup ayam dan itek di-bunoh orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika sa-orang mĕmbunoh ayam dan itek di-bawah rumah orang, salah, harga-nya bayar, dan kĕna dĕnda sa-puloh dinar; jika di-bunoh di-luar rumah bayar

harga sahaja; jika binatang halal di-jadikan haram di-bunoh salah."

49. Undang-undang masok ka-nĕgĕri orang, maka titah Raja Nasruan Adil, apa hukum-nya?" Maka sĕmbah Mĕntĕri Khodja Berdza Amir Hakim, "Jika mĕlaluï kampong orang kain labohkan; jika naik rumah orang kalau tiada orang laki-laki di-dalam rumah itu boleh dudok hingga muka pintu sahaja, sa-bĕlah kaki di-tangga; jika bĕrtĕmu di-dalam nĕgĕri itu dĕngan orang bĕrpĕrang orang dagang dĕngan anak nĕgĕri masoki sa-bĕlah anak nĕgĕri; jika sama-sama anak-anak nĕgĕri bĕrpĕrang jangan di-masoki; jika hĕndak dudok di-nĕgĕri orang, pĕrtama-tama bĕri hormat kapada raja-raja yang mĕmĕrentah nĕgĕri, kĕdua kapada orang bĕsar-bĕsar di-nĕgĕri itu, kĕtiga pada kĕtuaan atau pĕgawai masjid, supaya tiada boleh tĕrkĕna aniaya; apa-apa adat orang daerah itu ikut dan jangan bĕrlĕbeh-lĕbeh."

50. "Undang-undang orang bĕrzina dĕngan sa-orang pĕrĕmpuan sudah sampai aduan kapada pĕnghulu mukim itu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika mĕngaku antara kĕdua-nya boleh-lah di-nikahkan dan kĕna dĕnda sa-paha ĕmas; jika pĕnghulu mukim itu tiada-lah, salah, salah boleh muafakat."

51. "Undang-undang orang dagang masok kampong orang hĕndak bĕrmalam, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika tiada di-bĕri tĕmpat, salah, sĕrta di-bĕri chukup makan, hingga sa-kali malam."

52. Undang orang bĕrbunoh-bunohan; maka titah Raja Nasruan Adil, "Hai Mĕntĕri-ku yang budiman lagi tĕrus mata: mau-lah chari hukum-nya yang satu pĕrkara lagi ini; maka sĕbab pĕrkara raja di-dalam dunia ini tiada-lah dua (tiga) lagi raja mashrek raja

maghrib daksina dan paksina?" Maka sĕmbah Mĕntĕri, "Baik-lah tuan-ku." Maka Mĕntĕri itu pun bĕrpikir sa-kĕtika kĕmudian baharu-lah bangkit mĕnggĕrakkan kĕpala-nya; maka sĕmbah Mĕntĕri Khodja Berdza Amir Hakim, "Ya tuan-ku, ada-lah juga satu pĕrkara hukum-nya; ada pun sakalian anak Adam ini di-hukumkan kapada sa-orang, lima chupak sahaja darah-nya, jika mati sa-orang bunoh sa-orang kĕluar darah-nya, maka diat-nya darah itu sa-tahil sa-paha ĕmas; dan kĕna dĕnda itu lima tahil ĕmas, karna sĕbab mĕngĕluarkan darah daripada tuboh anak Adam, maka sĕpĕrti nyawa itu bila-bila pun, Allah taala yang ĕmpunya milek." Dan-lagi sĕmbah mĕntĕri itu, "Ya tuan-ku ada pun gunaan ĕmas perak dĕrham, di-turunkan ka-dalam dunia ini, pĕrtama-tama mĕlĕpaskan sakalian anak Adam yang di-bunoh oleh raja-raja yang bĕlum umur apabila ada bĕrsalahan, dĕnda atas kĕsalahan diri-nya, ya'itu supaya tĕrlĕpas tiada boleh tĕrbunoh lagi itu-lah guna-nya ĕmas, daki dunia ini di-turunkan; dan yang lain-lain buat amal dan buat makan, dan buat pakai mana-mana yang di-bĕri Allah, kalau banyak ĕmas itu boleh lĕpas apa-apa dosa-nya, karna mana-mana mĕreka yang dapat ĕmas itu Allah mĕmbĕri-nya kalau jadi apa-apa di-atas-nya kĕmudian." Maka sĕmbah Mĕntĕri, "Ya tuan-ku jika apa dosa-nya mĕreka itu kalau lalu ia mĕngĕluarkan timbangan-nya ĕmas, boleh lĕpas sĕmua-nya dosa itu di-dalam dunia ini, jika tiada yang dĕmikian itu, tiada-lah bĕrguna ĕmas ini."

53. "Undang-undang orang bahagi harta fasal chĕrai, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika barang-barang itu di-bawa-nya dari-pada ĕmak bapa-nya, tatkala bĕlum nikah masing-masing ada

mĕmbawa harta: maka harta itu-lah yang di-namakan harta sa-bĕlah, tiada boleh masok ka-dalam pĕrbahagian chĕrai itu. Tĕtapi-nya jika sampai tiga tahun sudah bĕrsama-sama sĕrta dapat anak boleh di-masokkan." "Dan mĕreka itu nikah dĕngan sa-orang pĕrĕmpuan, dapat anak dan dapat harta kĕmudian chĕrai, maka laki-laki itu nikah pula dĕngan lain pĕrĕmpuan dapat anak dan harta, kĕmudian mati, bagaimana hukum-nya?" Maka sĕmbah Mĕntĕri, "Jikalau harta itu mana-mana yang dapat di-dalam istĕri dahulu, tiada-lah dapat pĕsaka anak yang kĕmudian ibu itu; jika harta itu dapat pada istĕri yang kĕmudian tiada-lah boleh anak yang dahulu itu pĕsaka-nya, hingga yang boleh dapat harta kĕnang-kĕnangan sahaja masing-masing."

54. "Undang-undang orang pĕrĕmpuan mĕngadu hĕndak chĕrai apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama tiada nafkah batin, kĕdua tiada nafkah dzahir, boleh-lah chĕrai."

55. "Undang-undang orang kaya, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika banyak orang kaya di-dalam mukim itu sangat-lah baik-nya di-atas mukim itu, tĕtapi-nya orang kaya itu mau-lah murah atas orang-orang dan hĕndak hormat kapada raja-raja dan pada pĕnghulu, hĕndak-lah bĕri sadikit ĕmas kapada orang yang bĕrbuat taat, dan lagi khanduri sa-kali sa-tahun sa-kurang-kurang-nya tiada boleh tidak, dan bĕsarkan nama dunia dan sĕdĕkah pada miskin."

56. Undang-undang (pĕrbunohan): maka titah Raja Nasruan Adil, "Hai mĕntĕri-ku, apa sĕbab-nya maka di-dalam nĕgĕri orang kafir mĕmbunoh orang Islam tiada boleh di-bunoh kafir itu." Maka sĕmbah Mĕntĕri, "Jikalau di-belakan tiada-lah dapat baik-nya di-atas

Islam dunia dan akhirat, karna anak Islam itu dua pĕrkara di-pakai-nya, pĕrtama dunia kĕdua akhirat, dan kafir itu pakai dunia sahaja, dan lagi jika Islam itu mati di-bunoh kafir jika di-bunoh kafir itu di-belakan, jadi kafir-lah mĕreka-ĭtu sama-sama."

57. Undang-undang orang nikah dua kali: maka titah Raja Nasruan Adil, "Hai mĕntĕri-ku, apa sĕbab-nya sa-orang pĕrĕmpuan yang nikah kĕdua kali-nya bĕlanja tuboh-nya sa-banyak yang mula-nya juga?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, ada pun sa-orang bangsa Hashim atau mana-mana bangsa Islam nikah dĕngan raja atau orang bĕsar-bĕsar di-nĕgĕri itu jika sudah janda, janda-nya tiada kurang bĕlanja-nya, sĕpĕrti dahulu juga. Maka suatu bangsa Hashim atau raja nikah dĕngan bangsa di-bawah dari-pada-nya boleh dapat tĕbus talak lima tahil ĕmas, dan bĕlanja-nya bangsa Hashim itu lima tahil ĕmas bayaran, timbangan lima tahil itu lima ratus bidur banyak-nya."

58. "Undang-undang orang pĕgawai masjid di-dalam mukim: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah mĕntĕri, "Ya tuan-ku, ada pun orang jadi imam dan khatib dan bilal itu, pĕrtama-tama hĕndak baik paras-nya, sipat-nya tiada binasa, kĕdua baik suara-nya, kĕtiga hĕndak tahukan hari bulan dan tahun, kĕĕmpat suka hati-nya bĕrsusah-susah, kĕlima murah pĕrkataan kapada orang-orang, kĕĕnam pagi-pagi jĕmaat tĕrdahulu masok ka-dalam masjid daripada orang yang banyak, dan mana-mana rosak masjid mau di-pĕlihara-nya."

59. "Undang-undang orang jadi pawang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ada pun pawang hĕndak panjang akal-nya, dan ia bĕrkata-kata dĕngan baik dan usaha bĕrsusah-susah, dan tiada boleh bĕrbuat

bohong kapada orang-orang dan jangan bĕrjahat dĕngan pĕrĕmpuan lain-lain; maka orang sakit jika ada, mau sĕgĕra pĕrgi, karna pawang di-dalam mukim itu balas-nya tiada kĕna rapai dan surohan raja-raja dan orang bĕsar-bĕsar."

60. "Undang-undang orang jadi bidan, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ampun tuan-ku, ada-pun bidan itu hĕndak kĕras hati-nya, hĕndak bĕtul-bĕtul kapada orang-orang dan jangan mĕnyĕrapa-nyĕrapa orang dan waktu orang bĕranak pĕrgi sĕgĕra; maka sakalian anak Adam ini upah bidan-nya tĕngah tiga dĕrham lima bidur, dan kain sa-hĕlai, minyak chara Perak satu, di-dalam tujoh hari mau-lah bidan pĕlihara di-dalam rumah itu."

61. "Undang-undang orang mĕnaroh anak pĕrĕmpuan bujang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, ada-lah mĕnaroh pĕrĕmpuan bujang itu sĕpĕrti mĕnaroh ĕmas baik-baik-nya dan jahat-nya sĕpĕrti mĕnaroh api di-tĕngah kampong. Jika sampai umur-nya tujoh-bĕlas tahun, mau-lah di-charikan suami-nya, jika orang kurang hĕndak suamikan itu bĕri khabar kapada-nya dahulu, dan jika orang lĕbeh pun bĕri khabar juga, jika sama-sama antara nanti sahaja boleh jadi."

62. "Undang-undang orang mĕnaroh anak laki-laki bujang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jangan-lah di-bĕri oleh ĕmak bapa-nya kain baju, jika ia hĕndak bĕrniaga jangan-lah di-bĕri mudal dari-pada ĕmak bapa-nya; jika hĕndak [di-pinangkan chari orang pĕr-tĕngahan, jika bĕrkata-kata dĕngan orang jangan di-puji anak itu, yang mĕnjadi hutang kapada ĕmak bapa-nya di-atas anak itu, pĕrtama-tama surohkan mĕngaji Koran, kĕdua elmu dunia, kĕtiga tatkala ia nikah jika sudah lĕpas itu lĕpas-lah hutang ĕmak bapa-nya kapada anak."

63. "Undang-undang orang mĕnchari elmu, pĕrtama-tama pada orang yang di-kaseh orang, kĕdua kapada orang mĕlawan orang, kĕtiga kapada orang yang bĕriman, kĕĕmpat pada orang jahat; itu-lah tĕmpat elmu."

64. "Undang-undang orang mĕnaroh elmu?" "Pĕrtama-tama pĕngĕtahuan-nya itu panjang di-nampakkan kapada orang, kĕdua jika orang bĕrguru jangan pĕngkĕras-nya karna duit, kĕtiga jangan di-buat sĕpĕrti pantun, kĕĕmpat di-dalam hati hĕndak-lah di-muliakan, kĕlima jangan di-bĕsarkan murid pada orang, kĕĕnam jangan bĕrmuridkan orang yang kurang bangsa, kĕtujoh jangan di-ajarkan pada orang yang tiada bĕriman, kĕdĕlapan elmu itu hĕndak-lah di-amalkan."

65. "Undang-undang orang baharu lĕpas nikah bagaimana hukum-nya?" Maka sĕmbah Mĕntĕri, "Laki-laki itu hĕndak-lah hormat kapada saudara pĕrĕmpuan itu, di-dalam tujoh hari jangan tĕtap sangat dudok di-rumah mau bĕrjalan pada lain-lain tĕmpat, tatkala datang di-rumah dudok di-luar kĕlambu, dan mau tahan nafsu di-dalam ĕmpat-puloh hari, supaya baik iman di-atas kĕdua-nya."

66. "Undang-undang orang bĕristĕri, bagaimana hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, kĕhĕndak-nya pĕrtama-tama jika badan-nya dapat sakit mau ubatkan dan yang kĕdua kĕbĕratan-nya pula, kĕtiga atas makan minum dan pakai-nya mana-mana kadar-nya, kĕĕmpat hĕndakkan rumah tĕmpat dudok, kĕlima ia hĕndak bĕrtanam-tanam jalan mĕmbuat kĕhidupan, jika sĕbab itu ia marahkan suami-nya jangan di-lawan oleh suami-nya, jika kĕhĕndak-nya yang lain dari-pada itu sa-kali-kali jangan di-ikutkan suami-nya apa-apa pĕrkataan-nya jangan di-dĕngarkan dan apa-

apa rahsia jangan di-khābarkan kapada-nya, karna pĕrĕmpuan itu sĕpĕrti mĕnaroh sĕtĕru di-dalam sĕlimut; dan jangan di-chĕmburukan, tidak di-chĕmburukan pun tiada-lah juga boleh jadi, dan tĕmpat makan atau tĕmpat tidur jangan di-bĕri laki-laki yang lain dudok tidur tiada baik, dan lagi jangan pĕrchayakan sama-sama sa-orang laki-laki dĕngan pĕrĕmpuan, karna laki-laki dĕngan pĕrĕmpuan itu sĕpĕrti mata-hari dĕngan bulan, tiada-lah boleh bĕrdĕkat-dĕkat karna sĕpĕrti pĕrĕmpuan jika sudah jahat dĕngan lain-lain orang hukum-nya pĕrtama-tama chĕrai, kĕdua di-bunoh, kĕtiga tinggalkan nĕgĕri itu, kĕĕmpat di-nikahkan: maka yang ĕmpat pĕrkara itu sudah-lah di-dalam dunia ini."

67. Undang-undang orang mĕngambil pĕrĕmpuan orang: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri Khoja Berdza Amir Hakim, "Ya tuan-ku, jika bĕrtĕmu di-dalam tiang ĕmpat itu, boleh di-tikam oleh laki-laki tiada apa-apa dawa sa-bĕlah pĕrĕmpuan itu dan kĕrat rambut-nya, jika sudah sampai pada raja atau pada pĕnghulu mukim itu, tiada-lah boleh di-bunoh lagi, hukum-nya pĕrĕmpuan itu turun badan sahaja, jika hutang pulang pula mĕreka yang mĕngambil pĕrĕmpuan itu, dan-lagi bĕlanja nikah pĕrĕmpuan itu pulang pada laki-nya itu, dan salah kapada laki-nya itu kĕna dĕnda sa-tahil sa-paha ĕmas, dan-lagi kapada mukim kĕna sa-tahil sa-paha ĕmas. Jika lalu di-bayar-nya boleh mĕreka-itu lĕpas dan boleh nikahkan, dan jika tiada tĕrbayar-nya apa-apa adat nĕgĕri itu, tiada boleh di-nikahkan, orang itu di-halau daripada mukim itu sĕrta di-dĕnda-kan sa-tahil sa-paha ĕmas; jika tiada bayaran-nya ambil barang-barang-nya apa yang ada pada badan-nya, sĕbut sĕpĕrti binatang."

68. "Undang-undang mĕngambil tunangan orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Tiada boleh di-bunoh hingga boleh di-pukul jika kĕsalahan itu sampai pada pĕnghulu boleh di-nikahkan tĕtapi bĕlanja-nya ganda, yang ganda itu pulang pada tunang-nya dan kĕna dĕnda sa-tahil sa-paha ĕmas; dan jika ada sa-suatu tanda tunang-nya itu yang bĕri kapada pĕrempuan itu, satu pulang dua, jika barang makan barang pakaian yang sudah di-pakai oleh tunang-nya, tiada-lah boleh pulang balek, jika laki-laki yang mĕngambil itu tiada lalu mĕmbayar mana-mana adat nĕgĕri sĕrta kaum-nya pun tiada boleh di-nikahkan, dan boleh di-halau dan di-pukul dan di-rampas; mĕreka-itu mĕmbuat angkara nama-nya."

69. "Undang-undang orang mĕnghidupkan anjing mĕnggigit orang, kĕluar darah?" Maka kata Mĕntĕri, "Anjing itu boleh di-bunoh dan tuan-nya kĕna bĕlanja ubat, sa-paha ĕmas sa-kurang kurang-nya dan kĕna dĕnda dua puloh dĕrham."

70. Undang-undang orang mĕnghidup gajah mĕmbunoh orang: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika gajah itu mĕmbunoh orang di-dalam hutan, kira-kira satu kĕroh bumi jauh-nya daripada kampong orang, boleh kĕna dĕnda sa-tahil sa-paha ĕmas yang ĕmpunya gajah itu, bĕri bĕlanja orang mati itu, jika gajah itu mĕmbunoh orang di-dalam kampong, salah bĕsar atas yang mĕmbĕla gajah itu; maka itu gajah di-bunoh oleh tuan-nya kĕna dĕnda sa-tahil sa-paha ĕmas dan bĕlanja mati itu sa-tahil ĕmas." Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika siapa-siapa mĕnghidup binatang haram yang dĕmikian itu, lĕmah hukum-nya, jika lain-lain binatang yang haram pun dĕmikian itu jua tuan-ku."

71. "Undang-undang orang mĕnghidup kĕrbau mĕmbunoh orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika di-bunoh-nya di-dalam hutan, kĕna tuan kĕrbau bĕlanja ka-bumi, kĕrbau itu pulang pada tuan-nya dan orang mati itu di-khandurikan-nya jika di-dalam kampong salah tuan kĕrbau, kĕna dĕnda sa-tahil sa-paha ĕmas, kĕrbau itu pulang kapada orang yang mati bĕlanja ka-bumi-nya; jika kĕrbau mĕlukakan orang di-dalam kampong, kĕrbau pulang sa-bĕlah pada orang luka itu, dan kĕna dĕnda sa-paha ĕmas; jika di-dalam hutan kĕrbau pulang sa-bĕlah sahaja."

72. "Undang-undang orang di-dalam dunia akal-nya yang sĕmpurna?" Maka sĕmbah Mĕntĕri, "Di-dalam dunia ini pĕrtama-tama baik badan-nya, tiada sakit, kĕdua banyak ĕmas-nya, kĕtiga kata-kata-nya di-ikut orang, kĕĕmpat mĕmĕgang pĕrentah nĕgĕri. Maka tatkala itulah lĕbeh akal-nya daripada mĕreka yang banyak, baharulah kĕluar lĕmak hati-nya jika siapa-siapa mĕreka tiada dapat yang dĕmikian itu, tiada-lah akal mĕreka-itu tĕrbit daripada dzulmat badan-nya dan jantong-nya."

73. "Undang-undang orang bĕrdawa?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama mĕreka-itu tahu ia akan diri-nya di-jadikan Allah, kĕdua tahu akan adat nĕgĕri itu, kĕtiga tahu akan salah bĕnar-nya, dan jika tahu ia akan hukum adat rĕsam nĕgĕri itu jika ia salah boleh di-ampun satu kali."

74. Undang-undang orang pĕrang: maka titah Raja Nasruan Adil, "Apa isharat-nya?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama banyakkan bĕlanja, kĕdua banyakkan orang, kĕtiga banyakkan sĕnjata, kĕĕmpat akal, kĕlima bĕrilmu, kĕĕnam banyak bantuan, kĕtujoh banyak bĕrani, kĕdĕlapan banyak tipu, kĕsĕmbilan banyak lĕbeh kira-kira, kĕsapuloh chari orang yang sa-orang, dan

orang banyak itu marah jadi-nya. Maka orang sa-orang itu payah chari-nya; di-dalam itu mau ikut orang yang sa-orang, jangan di-ikut kata orang yang banyak."

75. "Undang-undang sa-orang pĕrĕmpuan bĕrlaki dapat anak, kĕmudian chĕrai; maka dapat pula laki lain, dan dapat anak; maka mati laki-nya itu, bagaimana pĕsaka-nya itu?" Maka sĕmbah Mĕntĕri, "Anak yang dahulu itu dapat sa-bahagi di-dalam ĕmpat bahagi (dapat satu bahagi)."

76. Undang-undang orang dagang mati, banyak harta-nya: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Adat-nya orang yang dĕmikian itu pulang atas raja atau pĕnghulu mukim itu, maka itu-lah jadi ibu bapa-nya; ada pun jika dagang itu mati tiada harta, maka di-atas raja-raja dan pĕnghulu-pĕnghulu tĕmpat itu bĕri bĕlanja mati dan ka-bumi-nya; jika ada harta-nya sa-bĕrapa banyak pun pulang pada pĕnghulu daerah itu." Kata sĕmbah Mĕntĕri Bĕsar.

77. Undang-undang di-dalam satu nĕgĕri mati raja-nya, maka sakalian anak chuchu-nya yang tinggal hĕndak jadi Raja bĕlaka: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama yang tua umur-nya; jika tiada, anak yang bongsu itu-lah yang jadi raja, dapat ganti-nya anak yang gahara."[1]

78. Undang-undang hĕndak mĕnjadikan orang bĕsar di-dalam nĕgĕri itu: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama ambil pada bangsa-nya, kĕdua saka, kĕtiga bahagi, kĕĕmpat tua umur-nya; jika ada yang ĕmpat pĕrkara itu boleh jadi aman di-dalam mukim itu dapat baik juga pada rayat-nya."

[1] The text is doubtful.

79. Undang-undang orang jadi kadzi di-dalam nĕgĕri itu atau mukim: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri Berdza Hakim, "Pĕrtama-tama tahu ia akan hukum Allah dan Nabi, kĕdua tahu ia akan adat hukum nĕgĕri, kĕtiga baik suara dan bachaan-nya, kĕĕmpat baik tuboh-nya, tiada chachat dan sipat-nya elok.

80. "Undang-undang orang jadi pawang di-dalam mukim, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama jangan orang bohong, kĕdua tiada boleh tĕkĕbur, kĕtiga jangan orang pĕmarah akan orang, kĕĕmpat jangan pandangkan upahan sahaja. Jika orang yang dĕmikian itu jangan di-buatkan pawang."

81. "Undang-undang orang chĕrai, di-dalam tiga bulan sa-puloh hari laki-laki kĕndak balek dan pĕrĕmpuan tiada mau balek, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Hukum-nya tiga bulan sa-puloh hari jika pĕrĕmpuan tiada mau, boleh di-kuatkan, tĕtapi bĕlanja tuboh-nya bawa tunai. Jika di-turunkan kĕna pĕrĕmpuan-nya sa-banyak bĕlanja yang di-bawa itu, karna ia datang dĕngan adat-nya jika di-pulangkan pun dĕngan adat boleh jua."

82. "Undang-undang orang chĕrai ada anak-nya, dan di-mana diam anak-nya itu?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika anak-nya itu bĕlum sampai umur sĕmbilan tahun, diam pada ĕmak-nya; jika lĕbeh sĕmbilan tahun, pada ĕmak-nya pun jadi pada bapa-nya pun jadi, mana-mana suka anak-nya itu; akan tĕtapi-nya jika anak pĕrĕmpuan diam pada ĕmak-nya pun patut."

83. Undang-undang orang sa-susu nikah, maka titah Raja Nasruan Adil: "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Kapada dunia boleh, akan tĕtapi kĕdua mĕreka itu punya ĕmak bĕrsalam-salaman mĕngampun anak-

nya, jadi ampun; karna di-dalam dunia ini ĕmak dan bapa-nya, kĕdua raja yang jadi Sultan itu, ganti Tuhan."

84. "Undang-undang orang nikah dĕngan pĕrĕmpuan: maka pĕrĕmpuan itu mĕnyusu pada istĕri laki-laki itu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Boleh di-nikahkan, tĕtapi bayar sĕdĕkah di-dalam masjid ĕmas dan perak, boleh-lah nikah laki-laki itu. Ada pun di-dalam dunia ini apa-apa yang salah adat nĕgĕri lalu mĕmbayar oleh mĕreka itu, lĕpas sĕmua-nya, jika hukum mati sa-kali pun boleh lĕpas, lamun di-bayar adat nĕgĕri raja itu. Karna kĕgunaan ĕmas di-turunkan Allah ka-dalam dunia ini barang siapa-siapa yang mĕnaroh-nya boleh sĕnang, boleh di-lĕpaskan-nya daripada apa-apa salah; jika tiada boleh tiada-lah bĕrguna Allah turunkan ka-dalam dunia ini pada hamba-nya."

85. "Undang-undang orang yang tiada boleh nikah mana-mana laki-laki itu dan pĕrĕmpuan itu?" Maka sĕmbah mĕntĕri, "Hukum yang tiada boleh nikah laki-laki itu dĕngan pĕrĕmpuan pĕrtama-tama ĕmak-nya dĕngan anak, kĕdua anak dĕngan bapa, kĕtiga adek-bĕradek, kĕĕmpat janda anak, kĕlima Islam dĕngan kafir, kĕĕnam pĕrĕmpuan sa-susu, kĕtujoh orang yang tiada tahu 'B'ismillah.' Itu-lah yang tiada boleh di-nikah. Lain-lain boleh sĕmua-nya pada hukum dunia dan hukum undang-undang."

86. "Undang-undang orang mĕngambil pĕrĕmpuan orang, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika orang itu ambil pĕrĕmpuan orang itu, tatkala di-rumah bĕrtĕmu dĕngan laki-nya di-bunoh-nya mati tiada apa-apa dawa-dawi kĕmudian hari; jika tiada di-bunoh-nya oleh laki-nya tatkala di-rumah itu jika orang yang ambil itu sampai pada raja atau pĕnghulu, tiada boleh di-bunoh lagi, kĕna timbang apa-apa yang

di-adatkan nĕgĕri dĕngan ĕmas, kĕna timbang dua kali bĕlanja tuboh dan kĕna dĕnda sa-ratus bidur."

87. "Undang-undang mĕnumpang pĕrahu, maka pĕrahu itu rosak, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Hukum-nya bĕrsama-sama rosak sama-sama rugi, tiada dapat di-ganti lagi."

88. "Undang-undang orang mĕnumpangkan barang sahaja, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika pĕrahu rosak bukan di-sahaja, tiada kĕna ganti, jikalau barang itu hilang, lain-lain ganti oleh tuan si-pĕnumpang itu yang punya pĕrahu."

89. Undang-undang orang sewa rumah atau kĕdai, maka rumah itu tĕrbakar: maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Sewa rumah atau kĕdai itu hilang, harga rumah dapat sĕmua, sewa daripada mula-mula sĕmua-nya hilang bĕlaka."

90. "Undang-undang orang sewa unta atau lain-lain. Maka unta itu mati, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika mati pada tĕmpat bĕrhĕnti sa-malam, hilang harga-nya dapat sewa sahaja; jika mati di-tĕngah jalan kĕna bayar harga-nya hilang sewa."

91. Undang-undang orang mati atau lain-lain bichara: maka di-katakan orang sakalian satu orang pula yang mĕmbunoh-nya, akan tĕtapi tiada siapa mĕlihat sĕndiri-nya akan mati-nya itu, tĕntu di-bunoh orang: maka banyak orang mĕngatakan mĕreka-itu mĕmbunoh-nya, maka mĕreka-itu tiada mĕngaku, maka mĕlihat mata-nya sĕndiri pun tidak, maka titah Raja Nasruan Adil, "Apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, di-dalam undang-undang jika ayam puteh tĕrbang siang, mĕlihat mata yang banyak, sudah tĕntu-lah, jika ayam hitam tĕrbang malam, siapa tahu? Bĕrdĕbus bunyi-nya

sahaja. Tiada-lah kĕna atas mĕreka-itu, akan tĕtapi-nya tĕrbang malam itu banyak juga orang tahu jadi kĕna timbang di-atas mĕreka-itu sa-kadar ĕmas dan perak, jika hĕndak di-bunoh juga mĕreka-itu tiada-lah boleh tahu orang-orang, jadi juga."

92. "Undang-undang orang mĕnjadi Raja di-dalam nĕgĕri itu apa-apa yang jadi aman pada nĕgĕri itu?" Maka sĕmbah Mĕntĕri, "Pĕrtama-tama adil hukum-nya, kĕdua murah makan di-dalam nĕgĕri itu, jadi aman-lah nĕgĕri itu."

93. Undang-undang orang jadi orang bĕsar di-dalam nĕgĕri: maka titah Raja Nasruan, "Apa adat-nya?" Maka sĕmbah Mĕntĕri, "Adat-nya pĕrtama-tama orang bĕsar itu mĕmĕlihara atas Raja-nya, kĕdua mĕmĕlihara atas rayat-nya: maka aman-lah nĕgĕri itu."

94. "Undang-undang orang upah ubat orang sakit; maka di-bĕri ubat oleh mĕreka-itu, baik sa-tĕngah sahaja sakit-nya itu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika baik [sa-tĕngah] sakit itu kĕna bĕlanja ubat sahaja, jika baik [sa-kali] kĕna hukum di-dalam undang-undang ini."

95. "Undang-undang orang kĕna upah ubat, dan banyak upah-nya bĕrapa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika orang gila sa-tahil sa-paha ĕmas, sabanyak harga kĕpala-nya anak mĕrdĕheka itu sa-tahil sapaha ĕmas, dan lain-lain sakit upah-nya sa-paha ĕmas."

96. "Undang-undang orang mandi balai hantu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika mandi raja-raja yang bĕsar, boleh sĕmbilan tingkat balai-nya; jika orang bĕsar-bĕsar boleh lima tingkat balai-nya; jika orang kĕbanyakan boleh tiga tingkat balai-nya, jika orang banyak mĕmbuat lĕbih daripada tiga tingkat salah, dĕnda sa-paha ĕmas karna mĕlaluï adat nĕgĕri."

97. "Undang-undang orang banyak dudok di-majlis, bĕrkata di-tĕngah majlis itu, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Jika sa-orang bĕrkata-kata pada sa-orang, jangan di-champuri oleh orang banyak; mana-mana yang di-lawan-nya oleh raja-raja atau orang bĕsar-bĕsar itu-lah sahaja."

98. "Undang-undang orang mĕnjadi pĕnghulu suatu tĕmpat, apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Pĕr-tama-tama buat ĕmas, kĕdua bĕtulkan hukum-nya, kĕtiga jangan marahkan orang taroh lama-lama, kĕĕmpat jangan di-ambil paedah dalam bichara itu; maka pĕrĕmpuan hĕndakkan tĕmpat diam atau sakit badan-nya, [jangan di-lĕpaskan] bĕrjalan, dan jangan lama-lama [?di-lambat-kan]; jika yang lain-lain jangan di-ikutkan."

99. "Undang-undang raja-raja dĕngan orang-orang bĕsar-bĕsar dan orang rayat, dan rayat dĕngan orang bĕsar-nya, maka apa hukum-nya?" Maka sĕmbah Mĕntĕri, "Ya tuan-ku, jika ada barang apa-apa yang datang baik atau jahat, jangan di-taroh di-dalam hati mau-lah di-titahkan pada orang bĕsar-bĕsar itu, jika ada apa-apa baik dan jahat mau di-sĕbutkan pada raja-nya, jangan-lah di-taroh di-dalam hati. Dan lagi raja-raja atau orang bĕsar-bĕsar jikalau apa-apa bi-chara baik dan jahat itu mau-lah di-nyatakan pada rayat boleh tahu ia dan ingat; dan tiap-tiap raja dan orang bĕsar-bĕsar itu barang apa-apa bichara hĕndak di-tĕrangkan; jika di-sĕmbunyikan apa-apa titahkan sa-mula, jangan tidur adat nĕgĕri ada-nya."—*Tĕrkarang pada Saiyid Jafar bin Saiyid Unus, Dato' Pĕnghulu Kuala Teja, di-dalam Kinta, nĕgĕri Perak.*

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